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THE  
GENERAL STATUTES  
OF THE COMMONWEALTH OF  
MASSACHUSETTS.

AND  
ADDITIONAL LAWS TO THE PRESENT TIME.

*REDUCED TO QUESTIONS AND ANSWERS.*

By CHARLES U. BELL,  
OF THE ESSEX BAR.

*Second Edition, with Supplement.*



BOSTON:  
GEORGE B. REED, 37 BRATTLE STREET.  
1876.

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## PREFACE.

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THE General and Supplementary Statutes now amount to over 2,600 pages. I have endeavored to select all the more important provisions, passing by all matters of form, or of temporary or local interest, and much that concerns the duties of particular officers, and is of interest to them only. I have thus given a general view of the laws, indicating the subjects treated, the manner of their treatment; in short, all matters which are needed in the ordinary business of life. In matters of difficulty or importance, nothing can be a substitute for the official volumes. So far as practicable the language of the original laws is used. The divisions and titles of the General Statutes are retained, and subsequent statutes are incorporated under them.

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### NOTE BY THE PUBLISHER.

SOME thirty years ago W. B. Wedgwood, Esq., prepared a similar work to this on the Revised Statutes, and several large editions of it were sold.





# CONSTITUTION OF MASSACHUSETTS.

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## PREAMBLE.

WHAT, in general, are the objects of government ?

To secure the existence of the body politic, and by this means give the individuals who compose it their natural rights.

What is the body politic ?

A social compact in which the people covenant with each citizen and each citizen with the whole people.

For what purpose is it ?

That the people may make sure that all shall be governed by certain laws for the common good.

When these objects are not obtained, what can be done ?

The people may alter the government.

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## PART FIRST.

### DECLARATION OF RIGHTS.

It being declared that "all men are born free and equal," what are some of their natural rights ?

1. The enjoyment of life and liberty.
2. The acquisition, possession, and protection of property. In short, the pursuit of their safety and happiness.

**2      CONSTITUTION OF MASSACHUSETTS.**

What is the right and duty of all men in the community ?

To worship the Supreme Being, the great Creator and Preserver of the universe, publicly, and at stated seasons.

Shall the subject be compelled to worship in any particular way ?

The subject shall not be restrained from worshipping God in the manner and season most agreeable to the dictates of his own conscience, provided he does not disturb the public peace, or obstruct others in their religious worship.

What promotes the happiness and prosperity of a people, and the security of a republican government ?

The public worship of God, and instruction in piety, religion, and morality.

What may all religious societies do ?

1. Elect their pastor or religious teacher.
2. Contract with them for their support.
3. Raise money for erecting and repairing houses for public worship, and for the payment of all other necessary expenses.

Shall all religious sects and denominations have the same rights and protection ?

They shall, if demeaning themselves peaceably, be equally under the protection of the law, and no subordination of any one sect or denomination to another shall ever be established by law.

What sole and exclusive right belongs to the people of this Commonwealth ?

To govern themselves as a free, sovereign, and independent State ; and to forever exercise every power, jurisdiction, and right which is not or may not hereafter be by them expressly delegated to the United States of America.

To whom are all officers of the State accountable ?

To the people.

For what purpose is government instituted ?

The protection, prosperity, and happiness of the people.

What rights, therefore, belong to the people *only* ?

To institute government, to reform, alter, or totally change the same, and to cause their public officers to return to private life, at such period and in such manner as they shall establish by their frame of government, in order to prevent them from becoming oppressors ; and all citizens having such qualifications as they shall establish shall have equal right to elect officers and to be elected for public employment.

What return must each individual make to the State for the protection it gives to his life, liberty, and property ?

He must contribute his share of the expense of this protection, and give his personal service or an equivalent, when necessary.

Can private property be taken for public uses ?

Yes, with the owner's consent or that of the representative body of the people, when the public exigencies require, and then the owner shall receive a reasonable compensation therefor.

What certain remedy ought there to be for all injuries, or wrongs to the person, property, or character ?

By recourse to the law.

How ought every subject to obtain right and justice ?

Freely, without being obliged to purchase it, completely and promptly, conformably to the laws.

When shall a subject be held to answer for any crimes or offences ?

When they are fully and plainly, substantially and formally described to him.

Can he be compelled to accuse or furnish evidence against himself ?

He cannot.

What rights of proof and defence has the accused ?

He may produce all proofs that may be favorable to him, meet the witnesses against him face to face, and be fully heard in his defence, by himself or his counsel, at his election.

How shall the subject be judged when either his life, liberty, or estate are at stake ?

By the judgment of his peers or the law of the land.<sup>1</sup>

Can the legislature make any law subjecting any person to capital or infamous punishment, without trial by jury ?

They cannot, excepting for the government of the army and navy.

In what way can searches and seizures of the person, the houses, the papers, or any of the possessions of a subject be made ?

By warrants, when the cause or foundation of them is previously supported by oath or affirmation with a special designation of the persons or objects of search, arrest or seizure, directed to a civil officer.

When and how ought such warrants to be issued ?

In the cases, and with the formalities, prescribed by the laws.

What are some of the well known rights of the people ?

(*a*) The right to trial by jury. (*b*) The liberty of the press. (*c*) The right to bear and keep arms for the common defence. (*d*) The subordination of military to civil power. (*e*) The right of petition to the legislature and of instructing legislators, and of peaceably assembling.

<sup>1</sup> These provisions are taken almost word for word from the Magna Charta of England granted by King John.

By whom and when can the power of suspending the laws or their execution be exercised ?

By the legislature, in such particular cases only as they shall expressly provide for.

What right is allowed to legislators ?

Freedom of deliberation, speech, and debate, which can never be the foundation of any accusation or prosecution, action or complaint in *any other court or place* whatsoever.

What does the Constitution say about the meetings of the legislature ?

They should be frequent, for redress of grievances, and to amend and alter old and make new laws.

Can a tax or impost be imposed under any pretext without the consent of the legislature ?

It cannot.

Can the legislature convict of felony or treason ?

It cannot.

What laws are prohibited by the Constitution ?

Laws made to punish actions done before the existence of such laws (these are called *ex post facto* laws).

How ought taxes and duties to be established, fixed, laid, and levied ?

By the consent of the people or their representatives in the legislature.

What can no magistrate or court of law demand or impose ?

Excessive bail or sureties, excessive fines, cruel or unusual punishments.

Who can declare martial law ?

The legislature only.

What is essential to the protection of the rights of the citizen ?

An impartial interpretation of the laws and administration of justice ; and for this end judges, free, impartial, and independent. Therefore the judges of the supreme

court ought to hold office during good behavior, and to have honorable salaries established by standing laws.

What is necessary that the government may be one of laws, not of men ?

That the executive, judicial, and legislative departments be kept separate.

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## PART SECOND.

### CHAPTER I.

#### THE LEGISLATIVE POWERS.

##### SECTION I.

###### THE GENERAL COURT.

Of what branches does the legislature consist ?

Two, a Senate and House of Representatives, each with a negative on the other.

When does the legislature assemble ?

Annually, on the first Wednesday of January.

When does a bill or resolve become a law ?

When it has passed both houses of the legislature and been signed by the governor.

If the governor has objections to its passage what must he do ?

Return it to the house in which it originated with his objections in writing.

What is then the duty of the house receiving it ?

To enter the objections at large on their journal, proceed to reconsider the bill, and then vote anew on its passage.

How may the bill become a law notwithstanding the governor's veto?

By a vote of two thirds of the members present in each house in its favor.

Can a bill become a law in any other way without the governor's signature?

If he neither signs nor vetoes it in five days after he receives it, it becomes a law.

Is there any exception to this?

Yes, if the legislature adjourns before the five days expire, so that he could not return it to them, it fails to become a law.

What are the powers of the legislature?

1. To establish courts. 2. To pass reasonable and wholesome constitutional laws. 3. To provide for the election or appointment of officers. 4. To prescribe their duties. 5. To impose taxes, duties, and excises. 6. To make, at least once in ten years, a valuation of estates.

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## SECTION II.

### SENATE.

How many senators are chosen?

Forty. From forty districts of equal population established by the legislature.

Who determines their election and in what way?

The governor and council examine the returns made by the town clerks of the votes cast in each town, and the governor issues a summons to such persons as seem to have received the largest number of votes in each district.



**8      CONSTITUTION OF MASSACHUSETTS.**

**Who is the final judge of the election and qualifications of the senators ?**

**The Senate itself.**

**If there is a vacancy in the Senate how is it filled ?**

**By a new election.**

**What qualifications must a senator have ?**

**He must have lived in the State for five years before his election and be an inhabitant of the district.**

**What are the special powers of the Senate ?**

**To choose its officers and determine its own rules.**

**What can the Senate try ?**

**All impeachments.**

**In such case to what is the punishment limited ?**

**To removal from office and to disqualification to hold office.**

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**SECTION III.**

**OF THE HOUSE OF REPRESENTATIVES.**

**Of how many members does the House of Representatives consist ?**

**Two hundred and forty.**

**How are the districts for the choice of representatives determined ?**

**A census is taken every ten years, beginning in 1865. The legislature then divides the members among the counties, and the counties arrange the districts as near equally as may be.**

**How is the formation of the districts restricted ?**

**A town cannot be divided and not over three members can be allotted to one district.**

**What penalty may be imposed on districts that neglect to send ?**

**The legislature may fine them.**

What are the qualifications of a representative?

He must have resided in the district one year.

What power has the House of Representatives?

They are the grand inquest of the State, and impeach officers before the Senate.

What bills must originate with the house?

All money bills.

What other rights have they?

They are judges of the election of their members, select their own officers and establish their own rules, and can punish for contempt.

What privilege have they?

They cannot be arrested on mesne process while attending the legislature.

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## CHAPTER II.

### EXECUTIVE POWER.

#### SECTION I.

##### GOVERNOR.

Who is the supreme executive magistrate, and what is his title?

The governor, and his title is His Excellency.

How often is he chosen?

Annually.

What are his qualifications?

He must have lived in the State seven years, and have a freehold estate of one thousand pounds.

By whom is he elected and when?

By a plurality of the lawful voters, on the Tuesday after the first Monday of November.

**10      CONSTITUTION OF MASSACHUSETTS.**

**When does his term of office begin ?**

**On the first Wednesday of January.**

**What power has the governor ?**

**To call together the Council.**

**What power have the governor and council ?**

**To adjourn or prorogue the legislature at their request and to call them together.**

**If the houses disagree as to the time of adjournment, can the governor and council adjourn them ?**

**Yes, but not for more than ninety days.**

**Who is the commander-in-chief ?**

**The governor.**

**What limitation is there on his authority ?**

**He cannot order the militia out of the State except by their consent or that of the State.**

**Who has the power to pardon ?**

**The governor with the council, but only after conviction.**

**What officers are nominated and appointed by the governor with the consent of the council ?**

**All judicial officers and coroners, and notaries public.**

**Who elect militia officers ?**

**The privates elect their captains and subalterns, they, the field officers, they, the brigadiers. The major-generals are elected by the legislature.**

**How is money drawn from the treasury ?**

**By a warrant from the governor with the consent of council.**

**When must all boards make returns ?**

**Quarterly.**

**What salaries must be allowed the governor and supreme court ?**

**Fixed, permanent, and honorable salaries.**

SECTION II.

LIEUTENANT-GOVERNOR.

What are the qualifications and manner of election of the lieutenant-governor ?

The same as of the governor.

What is his title ?

His Honor.

What position has he, by virtue of his office ?

He is a member of the council.

When does he act as governor ?

When the chair of governor shall be vacant by reason of his death, absence from the Commonwealth, or otherwise.

SECTION III.

OF THE COUNCIL, AND THE MANNER OF SETTLING ELECTIONS BY  
THE LEGISLATURE.

Of how many does the council consist and how is it chosen ?

Of eight persons chosen by districts.

How is a vacancy filled ?

By a new election.

When have they the power of the governor ?

When the offices of governor and lieutenant-governor are vacant.

What is their ordinary duty ?

To advise the governor.

SECTION IV.

SECRETARY, TREASURER, ETC.

By whom are the secretary, treasurer, and receiver-general, auditor, and attorney-general chosen ?

By the people annually.

For how many successive years is the treasurer eligible ?

Five only.

### CHAPTER III.

#### JUDICIARY POWER.

Where must the tenure of office be expressed ?

In the commissions.

How long do judicial officers hold their positions ?

During good behavior, subject to removal by the governor on address of the legislature.

Who can require the opinion of the supreme court on important questions ?

The governor or either house of the legislature.

How long do justices of the peace hold office ?

Seven years.

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### CHAPTER V.

#### THE UNIVERSITY AT CAMBRIDGE AND THE ENCOURAGEMENT OF LITERATURE.

What is confirmed to Harvard College ?

All its rights, privileges, and property.

Who controls the manner of choosing overseers ?

The legislature.

What is the duty of legislatures and magistrates ?

To cherish literature and schools, to encourage societies for the promotion of the arts, sciences, and trades, and to inculcate charity, industry, honesty, sincerity, good humor, and all social affections and generous sentiments among the people.

CHAPTER VI.

OF OATHS, INCOMPATIBILITY OF OFFICES, COMMISSIONS, WRITS, CONFIRMATION OF LAWS, HABEAS CORPUS, THE ENACTING STYLE, CONTINUANCE OF OFFICERS, REVISAL OF THE CONSTITUTION, ETC.

What oaths must every officer take?

The oath of allegiance to the State and the oath of office to perform its duties faithfully.

Are the governor, lieutenant-governor, or judges allowed to hold any other office under this or any other government?

No, except that of justice of the peace.

What offices cannot be held at the same time?

Judge of probate, sheriff, register of probate, or register of deeds.

How many other offices can be held at once?

Not more than two, — military offices and office of justice of the peace excepted.

What offices are declared inconsistent with a seat in the legislature?

Judge of the supreme court, secretary, attorney-general, treasurer, judge of probate, commissary-general, president, professor, or instructor in Harvard College, sheriff, clerk of the house, register of probate, register of deeds, clerk of the supreme court, or officer of the customs, or any office under the United States.

What with a seat in the council?

Judge of the supreme or probate courts.

What with a seat in Congress?

Judge of any court, attorney-general, county attorney, clerk of any court, sheriff, treasurer, register of probate, and register of deeds.

What is a disqualification for every office?

A conviction of bribery.

14      **CONSTITUTION OF MASSACHUSETTS.**

What provision is made concerning commissions?

They are in the name of the Commonwealth, signed by the governor, attested by the secretary, and under the great seal.

What concerning writs?

They are in the name of the Commonwealth, signed by the clerk, bear the test of the first justice, and are under the seal of the court.

What laws are continued?

All not repugnant to the Constitution.

How shall the privilege and benefit of the writ of *habeas corpus* be enjoyed?

In the most free, easy, cheap, expeditious, and ample manner.

**ARTICLE OF AMENDMENT.**

Who is empowered to establish cities?

The legislature, but only towns of over twelve thousand inhabitants can be made cities without their consent.

What are the qualifications of a voter?

Residence in the State one year, in the district six months, and ability to read and write.

How are amendments to the Constitution made?

After passing two legislatures, by a majority in the Senate and two thirds vote in the House of Representatives, they are ratified by the people by a majority vote.

To what is it illegal to apply any school money?

To the support of any sectarian school.

How are sheriffs, registers of probate, commissioners of insolvency, and clerks of the courts to be elected?

By the people.

When is a census to be taken.

In 1865 and every ten years after.

**THE  
GENERAL STATUTES OF MASSACHUSETTS.**

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**PART I.**

**OF THE INTERNAL ADMINISTRATION OF THE GOVERNMENT.**

**TITLE I.**

**OF THE JURISDICTION OF THE COMMONWEALTH,  
LEGISLATURE, STATUTES, PUBLIC REPORTS, AND  
DOCUMENTS, STATE LIBRARY, AND OTHER PUBLIC  
PROPERTY.**

**CHAPTER I.**

**OF THE JURISDICTION OF THE COMMONWEALTH AND  
PLACES CEDED TO THE UNITED STATES.**

**WHAT** are the territorial limits of the Commonwealth ?

One marine league from its sea-shore at low water-mark ; and where an arm of the sea does not exceed two marine leagues in width between its headlands, a straight line from headland to headland is equivalent to the shore line.

How far does the sovereignty and jurisdiction of the Commonwealth extend ?

To all places within its boundaries, except places ceded to the United States, where the United States has *concurrent* jurisdiction.

**What** and how many places are ceded to the United States ?

Forts, arsenals, dockyards, light-houses, hospitals,



**16 GENERAL STATUTES OF MASSACHUSETTS.**

navy yards, life-saving stations, post-offices, and other government buildings, more than seventy in number.

How are damages assessed when the United States takes land?

By the county commissioners, with a right to appeal to the courts of the Commonwealth.

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**CHAPTER II.**

**OF THE LEGISLATURE.**

Who may take seats as members of the House of Representatives?

The persons whose names are upon the lists delivered to the sergeant-at-arms.

How are these lists made up?

From the certificates of election which are examined by the secretary of state.

When and by whom is the house called to order?

On the first Wednesday of January, by the eldest member present.

What must a person do before presenting a petition affecting the rights and interests of individuals or private corporations?

Publish the petition for four weeks successively in some newspaper approved of by the secretary of state and published in the counties where such individuals live or in which such corporations are established. The last publication must be at least fourteen days before the next session of the General Court.

If the rights of a city or town are affected by such a petition, what must be done in addition to the above?

A copy must be served upon the city or town by a person not interested in the petition, at least fourteen days before the Tuesday next after the first Monday in

the month of November preceding the session at which the petition is to be presented.

When application is made for an act of incorporation, or for an alteration or extension of charter, how long before the session must notice be published ?

Four weeks.

What must be specified in such notices ?

The amount of capital stock required, or in case of extension or alteration of a charter, already granted, the fact that the charter exists.

What compensation does each member of the senate and house of representatives receive ?

Seven hundred and fifty dollars for the regular annual session, and one dollar for every five miles travel, once in each session, from the place of abode of the member to the place of meeting of the General Court.

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### CHAPTER III.

#### OF THE STATUTES.

How are the laws promulgated ?

By the publication each year of a volume under the direction of the secretary of state containing the acts and resolves passed during the last session, the governor's address and messages, the Constitution of the Commonwealth, a list of names changed and returned during the preceding year by the probate courts, and a list of the officers of the civil government.

Is there any other publication of the laws required ?

Yes, the secretary must publish the general laws and other official information in such newspaper as he may select.

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When do statutes take effect ?

If the time is not expressly prescribed, the statutes take effect on the *thirtieth* day next after they have been passed and approved.

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TITLE II.  
OF ELECTIONS.  
CHAPTER VI.

OF THE QUALIFICATIONS OF ELECTORS.

What are the qualifications required to give a native-born man the right to vote ?

1. He must be twenty-one years of age and upwards, and be able to read the Constitution in the English language, and write his name.

2. He must have resided within the State one year, and within the city or town in which he claims a right to vote six months next preceding any election of city, town, county, state, or national officers.

3. He must have paid a state or county tax in this State within two years next preceding such election.

What additional qualifications must a foreign-born man have ?

He must have proved to one of certain state or United States courts prescribed, that he has lived within the United States five years and been a law abiding person in order to be naturalized, and then he must have lived two years within the jurisdiction of the United States subsequent to his naturalization.

What means are used to ascertain who are the legal voters ?

1. The collectors of state and county taxes keep accurate lists of the names of those who pay taxes to

them; and twice a year, about a fortnight before the election days, they return their lists to the mayor and aldermen and selectmen of the respective cities and towns from which they make their collections.

2. The mayor and aldermen and selectmen of cities and towns, at least ten days before the election days, make correct alphabetical lists of all persons qualified to vote, and post them in two or more public places in their respective cities and towns.

3. The mayor and aldermen and selectmen have sessions at some convenient place within forty-eight hours of election days, for the purpose of receiving evidence of the qualifications of persons claiming a right to vote and of correcting the lists.

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## CHAPTER VII.

### OF THE MANNER OF CONDUCTING ELECTIONS AND RETURNING VOTES.

What is the penalty if a man, knowing he is not qualified, wilfully votes for any candidate, or gives more than one ballot, or wilfully gives a false answer to the officer presiding at an election, or votes under a false name?

A sum not exceeding one hundred dollars for each offence, or imprisonment not over six months.

What is the penalty for bribery, or attempt to influence by threats or otherwise a qualified voter to give or withhold his vote at an election?

A fine not exceeding three hundred dollars, or imprisonment in the county jail or house of correction for a term not exceeding one year, or both, at the discretion of the court.

**20    GENERAL STATUTES OF MASSACHUSETTS.**

What is the penalty for aiding and abetting an unqualified person to vote ?

A sum not exceeding fifty dollars for each offence.

How is disorder at an election punished ?

By a fine not exceeding twenty dollars.

What is done with the ballots cast and the check list ?

They are sealed up and preserved, so there can be a recount, if there is a dispute.

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**CHAPTER VIII.**

**OF THE ELECTION OF GOVERNOR AND OTHER STATE OFFICERS.**

When are the governor and other state officers elected ?

The Tuesday next after the first Monday in November of each year.

How many votes are necessary to elect ?

A plurality.

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**CHAPTER IX.**

**OF THE ELECTION OF REPRESENTATIVES IN CONGRESS AND ELECTORS OF PRESIDENT AND VICE-PRESIDENT.**

Into how many Congressional districts is the State at present divided ?

Eleven, each electing one representative. These districts may be altered by law, and are increased according to the census.

When and how often are Congressmen elected ?

On the state election day once in two years.

**How are vacancies filled ?**

**By new elections ordered by the governor.**

**What provisions are made concerning the presidential election ?**

1. On Tuesday next after the first Monday in November of the year when the President is elected, the voters shall vote for the whole number of the presidential electors to which the Commonwealth is entitled.

2. The names of all the electors to be chosen shall be written on each ballot ; and each ballot shall contain the name of at least one inhabitant of each congressional district into which the Commonwealth shall be then divided ; and shall designate the congressional district to which he belongs.

**If a majority of the whole number of electors are not chosen how are the residue chosen ?**

**By the legislature on joint ballot of the senators and representatives in one room, having been called together by a proclamation from the governor.**

**When and where do the electors meet, and how do they fill vacancies caused by death, absence, or deficiency in number at the time of their meeting ?**

The electors meet at the State House in Boston on the Tuesday preceding the first Wednesday of December following their election at three o'clock in the afternoon. They forthwith fill any vacancies by election from the citizens of the Commonwealth.

**When do they ballot for President and Vice-President, and what is the method of voting ?**

On the beforementioned first Wednesday they vote by ballot for one person for President and one person for Vice-President of the United States, one of whom at least shall not be an inhabitant of this Commonwealth. They vote on separate ballots and send certified lists of all persons voted for sealed to the seat of government of

**22 GENERAL STATUTES OF MASSACHUSETTS.**

the United States directed to the president of the senate.

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**CHAPTER X.**

**OF THE ELECTION OF DISTRICT AND COUNTY OFFICERS.**

For how long a term of office are district or prosecuting attorneys, clerks of courts, registers of probate, sheriffs, county commissioners, county treasurers, registers of deeds, etc., elected?

Clerks of courts and registers of probate for five years, the other officers for three years.

How are vacancies filled?

Generally by election ordered by the governor.

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**TITLE III.**

**OF THE ASSESSMENT AND COLLECTION OF TAXES.**

**CHAPTER XI.**

**OF THE ASSESSMENT OF TAXES.**

Upon whom is a poll tax assessed?

Upon every male inhabitant of the Commonwealth above the age of twenty years, whether a citizen of the United States or an alien.

What kinds of property are subject to taxation?

Real and personal property of the inhabitants of this State not expressly exempted by law. *+ Section 207, 208*

What property is expressly exempted from taxation?

1. The property of the United States.
2. The property of the Commonwealth.
3. The personal property of literary, benevolent, charitable, and scientific institutions incorporated within

this Commonwealth, and their real estate occupied by them or their officers for the purposes for which they were incorporated.

4. All property of common school districts, the income of which is appropriated to the purposes of education.

5. The Bunker Hill Monument.

6. The household furniture of every person not exceeding one thousand dollars in value, his wearing apparel, farming utensils, and mechanics' tools necessary for carrying on his business.

7. Houses of religious worship, and the pews and furniture (except for parochial purposes).

8. Cemeteries, tombs, and rights of burial, so long as the same shall be dedicated to the burial of the dead.

9. The property to the amount of \$500, of a widow or unmarried female, and of any female minor whose father is deceased, if her whole property, not otherwise exempted from taxation, does not exceed \$1,000.

10. Mules, horses, and neat cattle less than one year old; and swine and sheep less than six months old.

11. The polls and any portion of the estates of persons who by reason of age, infirmity, and poverty are, in the judgment of the assessors, unable to contribute fully toward the public charges.

Where is the tax on real estate assessed?

In the town where the estate lies.

Where is personal estate within or without this State assessed?

It is assessed to the owner in the city or town where he is an inhabitant on the first day of May.

What exceptions are there to this rule?

1. All goods, wares, and merchandise, and stock in



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trade, including stock, machinery, etc., employed in manufacturing, shall be taxed where the owners live or occupy manufactories, stores, etc., or where the machinery is situated or employed; and in assessing stockholders for their shares in any manufacturing corporation, there shall first be deducted from the value thereof the value of the machinery and real estate be longing to such corporation.

2. Domestic animals are assessed to the owners in the places where they are kept.

3. Trust funds are assessed to trustees where they live, if they live in this State, in equal portions if there be more than one, and if there are no trustees, then the beneficiary is assessed, if he live in the State.

Who is assessed for mortgaged personal property?

The person who has the possession.

How are partnerships assessed?

They are jointly taxed under their partnership name in the place where their business is carried on, for all the personal property employed in such business (except ships or vessels). If they have places of business in two or more towns, they shall be taxed in each place for the proportion of property employed therein. When so jointly taxed, each partner is liable for the whole.

How are ships or vessels taxed?

To the several partners in their places of residence proportionally to their interests therein.

By what rules are all taxes assessed?

The rules of this act.

If the assessors of any place neglect to assess and certify as the law requires, who is liable?

The town or city where the neglect occurs.

Are keepers of boarding-houses and taverns, and even masters

and mistresses of dwelling-houses obliged to give names of persons taxable living therein ?

Yes ; and for false information given to an assessor a penalty is provided.

Is any notice given to the inhabitants of an assessment ?

Yes. A notice is posted in public places which requires the inhabitants to bring in to the assessors, within a time therein specified, true lists of all their polls and estates not exempt from tax.

How are these lists verified ?

By oath administered by either of the assessors.

What valuation shall assessors make of all property ?

A fair cash valuation.

When the verified lists are not presented what is done ?

The assessors make an estimate of the property not accounted for according to their best information.

Upon whom is such estimate conclusive ?

Upon all persons who have not brought in lists of their estates, unless they can show reasonable excuse for the omission.

Who collects these assessments ?

The collector, or if no collector be chosen, a constable, or if there is no constable, the sheriff or his deputy.

To whom shall any person apply for abatement of taxes ?

To the assessors.

What appeal is there from the decision of the assessors ?

To the county commissioners within one month.

How soon must such abatement be applied for ?

Within six months.

## CHAPTER XII.

### OF THE COLLECTION OF TAXES.

What are the duties of the collector?

1. To collect according to the warrant from the assessors.

2. To demand payment personally, or at the place of abode of the person taxed.

3. To levy, by distress or seizure and sale of goods, the tax upon any persons refusing to pay, including in the distress any shares in corporations incorporated under authority of this Commonwealth.

What property is exempt from such distress?

1. The tools or implements necessary for the trade or occupation of the person taxed.

2. Beasts of the plough necessary for cultivation of improved lands.

3. Military arms.

4. Housekeeping utensils necessary for upholding life.

5. Bedding and apparel necessary for the family.

How long shall the collector keep property under distress?

For four days at least, and at the owner's expense.

How shall the property be sold for taxes and charges of distress?

By public auction within seven days after the seizure.

Under what circumstances may a person be imprisoned for non-payment of taxes?

If a person neglects or refuses, for fourteen days after demand, to pay taxes, and the collector cannot find sufficient goods upon which the tax may be levied.

How can such person be discharged?

By paying the tax; or, if unable to pay, by taking

the poor debtor's oath, as if he were arrested on execution.

If a person after assessment and before payment of his tax moves out of the precinct of the collector, how can he be forced to pay his tax?

By distress or commitment as before, the sheriff of the county or constable of the town to which he has removed acting for the collector, if necessary.

How can a tax upon the personal estate of a deceased person be collected?

The collector may maintain an action of contract in his own name, as for his own debt, against the executor or administrator.

How are taxes on real estate secured?

They constitute a lien on the real estate for two years after they are committed to the collector, and they may be levied with costs and expenses by sale of real estate, if not paid within fourteen days after a demand of payment made either upon the person taxed, or upon any person occupying the estate.

If the mortgagee in possession, or a non-resident owner by his attorney, give notice to the clerk of the town or city of their possession, is demand of payment sufficient, if made to them?

Yes; and otherwise no demand need be made of payment of taxes assessed on the real estate of non-resident owners.

What deed for the real estate or rents and profits sold shall the collector execute and deliver to the purchaser?

A deed stating —

1. The cause of the sale.
2. The price for which the property sold.
3. The name of the person on whom demand was made.
4. The places where notices were posted.

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5. The newspaper in which the advertisement of the sale was published.

6. The place of residence of the grantee.

Within how many days of the sale must this deed be recorded?

Thirty days.

How may real property thus sold and conveyed be redeemed?

The owner or his heirs or assigns may, within two years from the day of the sale, redeem his property by paying or tendering to the purchaser or his heirs or assigns the sum paid by him, with ten per cent. interest and all necessary intervening charges.

How may rents and profits so sold be redeemed?

Within two years they may be redeemed as they are when taken on execution.

Can the person, who had such title to the property that he might have recovered the property, if no sale had been made, redeem?

Yes, in some cases, if he tries within two years after he has had actual notice of the sale.

In what cases can he so redeem his property?

1. When no person is named in the tax list as the owner or occupant of the premises, it being taxed as belonging to persons unknown.

2. When the person named in the list is not the rightful owner.

3. When there is any error in the name of the person intended to be taxed.

4. Mortgagees of record.

If the purchaser of real estate sold for non-payment of taxes cannot be found in the place of which he is described in the collector's deed as resident, how can the owner redeem?

By paying to the treasurer of the place in which it is situated the amount he would be required to pay to the purchaser.

TITLE IV.

OF THE MILITIA.

1874. CHAPTER CCCXX.

[In place of Chapter xiii.]

Who are enrolled in the militia ?

Every able-bodied male citizen resident within this State between the ages of eighteen and forty-five years, with some exceptions on account of mental disability, crime, and incompatible occupations.

How and by whom is the enrolment accomplished ?

By the assessors, who annually in May or June make lists of persons living within their districts liable to enrolment.

When are the enrolled militia subject to active duty ?

When ordered by the commander-in-chief, by draft or otherwise, in case of war, invasion, the prevention of invasion, the suppression of riots, and to aid civil officers in the execution of the laws of the Commonwealth.

Give some of the exemptions from military duty.

Justices and clerks of courts of record, sheriffs, clergymen, practising physicians, superintendents of state institutions and their assistants, keepers of light-houses, telegraphic operators, conductors and engine-drivers of railroad trains, seamen actually employed, or who have been so employed within three months next preceding the time of enrolment.

How does the *active* militia differ from the *enrolled* ?

It is made up of volunteers, and is ordered into service before the enrolled militia is called upon.

How many men constitute the active militia ?

Five thousand, officers and men ; for the most part

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infantry, there being only six companies of cavalry and five of light artillery.

For how long a term do volunteers enlist ?

For three years. They are exempt from jury duty.

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**TITLE VI.**

**CHAPTER XVII.**

**COUNTIES AND COUNTY OFFICERS.**

**What is a county ?**

A body politic and corporate, for certain purposes.

**For what purposes ?**

1. To sue and be sued.
2. To purchase and hold for the use of the county personal estate, and lands lying within its own limits.
3. To make necessary contracts and do necessary acts in relation to the property and concerns of the county.

**What powers have the county commissioners ?**

1. To provide for erecting and repairing county buildings.
2. To represent their county and to have the care of the property, and the management of the business and concerns of the county.
3. To hear parties in dispute about county roads and other county works, and enforce attendance and order at such hearings.
4. To establish meridian lines.

**Who are the county commissioners for Boston ?**

The aldermen of the city ; except in reference to trials

by jury for the recovery of damages in laying, altering, or discontinuing highways or town ways.

Who are county commissioners for the rest of Suffolk County?

The county commissioners of Middlesex County.

What other county officers are there?

A treasurer, a board of examiners of accounts, sheriffs, coroners, and registers of deeds and of probate.

What are some of the duties of a sheriff?

To serve writs, summon juries, make arrests, attend courts in their county, and meetings of the county commissioners when so ordered, appoint deputies, to transmit returns of elections, taxes, etc., from county or town to state officials, to preside at trials by jury in highway cases, to have care and rule of jails, and except in Suffolk County, of the Houses of Correction.

What are some of the duties of a coroner?

1. To summon a jury of six men to ascertain the cause of a death unexplained, sudden, violent, or in prison.

2. To return their verdict; and if the verdict charges homicide upon any one, to have such person arrested and committed to prison to await trial.

3. To act as sheriff when that office is vacant.

What do registers of deeds and of probate record?

1. Registers of deeds record and make indexes of records of all conveyances of lands and agreements concerning lands, and similar documents.

2. Registers of probate record and keep on file all matters concerning wills and the administration and distribution of estates of deceased persons.



**TITLE VII.**

**OF TOWNS AND CITIES.**

**CHAPTER XVIII.**

**OF THE POWERS OF TOWNS, AND THE ELECTION,  
QUALIFICATION, AND DUTIES OF TOWN OFFICERS.**

What is a town, and what are some of its powers and duties?

It is a corporate body, like a county, and in general has the same power over its own limits.

For what purposes can a town at legal meetings appropriate money?

1. For the support of town schools.
2. For the relief of the poor.
3. For laying out, repairing, etc., of highways and town ways.
4. For procuring the writing and publishing of their town histories.
5. For burial grounds.
6. For the destruction of noxious animals.

What can the town do concerning its internal government?

It can make orders and by-laws, not repugnant to the laws of the State, for the management of its prudential affairs, for preserving peace and good order, and for the maintenance of its police.

How large a penalty can the town affix for breaches of such orders or by-laws?

A fine not exceeding twenty dollars for one offence.

By what authority are the by-laws of a town approved?

The superior court or a justice thereof in vacation.

Who may vote at town meetings?

1. Every male citizen of twenty-one years and up-

wards who has lived in the State one year and within the town six months next preceding a meeting for the transaction of town affairs, and who has paid a state or county tax which, within two years next preceding such meeting, has been assessed upon him in any town.

2. Every citizen who is by law exempted from taxation, and in all other respects qualified as aforesaid.

When are town meetings held ?

The annual town meeting is held in February, March, or April ; and other meetings when the selectmen order.

Can meetings be adjourned ?

Yes, from time to time, and to any place within the town.

By what authority are town meetings held ?

By a warrant from the hands of the selectmen directed to the constable, who shall notify the time and place of the meeting and all the subjects to be there acted upon.

What subjects shall be acted upon and have legal effect ?

Such only as are set forth in the warrant in writing by the selectmen.

How shall a town meeting be called if the selectmen unreasonably refuse to call it ?

Any justice of the peace at the request of ten or more voters may call a meeting by his warrant directed to the constables, or if there are no constables, to those applying for the meeting, in the same way as the selectmen would do and in the same form.

Who presides at all town meetings except meetings for the election of national, state, district, and county officers ?

A moderator, who is chosen by the meeting.

What powers and duties has a moderator besides presiding ?

1. To administer oaths of office to any town officer chosen at the meeting.

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2. To regulate the business and proceedings of the meeting.

3. To decide all questions of order.

4. To make public declaration of all votes passed.

Suppose a doubt about the result of a vote arises, what is done?

Upon the appeal of seven or more voters present, the moderator makes the vote certain by polling the votes or dividing the meeting.

What power has the moderator of keeping order?

He may order a disorderly person to withdraw from the meeting, and if not obeyed, he may order the constable or any other person to take the offender from the meeting and confine him in some convenient place until the meeting is adjourned.

To what penalty is such disorderly person subject?

A fine not exceeding twenty dollars.

What penalty attaches to a moderator or presiding officer who reads a ballot without leave of the voter?

A fine not exceeding fifty dollars.

What are the town officers chosen at a town meeting?

- (a.) A town clerk.
- (b.) Three, five, seven, or nine selectmen.
- (c.) Three or more assessors, and if the town deem it expedient, three or more assistant assessors.
- (d.) Three or more overseers of the poor.
- (e.) A town treasurer.
- (f.) One or more surveyors of highways.
- (g.) Constables, who shall also be collectors of taxes, unless other persons are specially chosen collectors.
- (h.) Field drivers.
- (i.) Two or more fence-viewers.
- (k.) One or more surveyors of lumber.

(1.) Measurers of wood and bark and some other minor officers.

What town officers are elected by ballot ?

Town clerk, selectmen, assessors, treasurer, constables, and moderator.

Is any person *obliged* to serve as a town officer ?

Yes, but not for two years successively.

What exceptions as to the office of constable ?

No State or United States officer, minister of the gospel, member of the Council, Senate, or House of Representatives, fireman, or person who has been constable or collector of a town within seven years next preceeding shall be obliged to accept the office of constable.

What must a constable do in order to have the power of serving all civil processes in personal actions where the damages are not laid at a greater sum than three hundred dollars ?

Give bond with sureties for three thousand dollars.

What are the duties of the town clerk ?

To keep the records.

Of the treasurer ?

To receive and pay out all money.

What power has the mayor of a city ?

A veto on acts and resolves of the common council and aldermen.

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## ACT OF 1874. CHAPTER CCCLXXXVI.

### OF CENSUS.

[In place of General statutes, Chapter XX.]

How often and by whom is the State census taken ?

Every tenth year from the year 1865, by such of the assessors of the several cities and towns as the bureau of statistics of labor shall appoint.

## CHAPTER XXI.

### OF THE REGISTRY, ETC., OF BIRTHS, MARRIAGES, AND DEATHS.

Who registers deaths, marriages, and births ?

The clerk of each city and town, or in towns over 10,000, a registrar is sometimes elected.

How does he get his information ?

Parents, physicians, and undertakers are obliged to give notice of births, deaths, and burials.

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## CHAPTER XXII.

### OF WORKHOUSES AND ALMSHOUSES.

For what persons can a town or city provide a workhouse ?

For poor and indigent persons who are maintained by or receive alms from the city or town. For persons able of body to work, and not having estate or means otherwise to maintain themselves, who refuse, or neglect to work. For persons who lead a dissolute, vagrant life. For persons who spend their time and property at public houses to the neglect of their proper business, or who otherwise mispend what they earn, to the impoverishment of themselves and their families.

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## CHAPTER XXIII.

### OF WATCH AND WARD.

How is the town or city watch established ?

By the city or town government. The mayor and aldermen or selectmen appoint the person suitable to

be officer of the watch, the town or city having determined the number and qualifications of the persons employed as watchmen.

What duties and powers have these watchmen ?

1. To prevent disorders and disturbances.
2. During the night-time to examine all persons abroad whom they suspect of unlawful designs.
3. To disperse any assembly of three or more such persons.
4. To enter any building for the purpose of suppressing riot or breach of the peace therein.
5. To arrest and imprison until morning, any suspected persons not giving satisfactory account of themselves, persons not dispersing when ordered so to do, rioters or their aiders or abettors.
6. To take all persons so imprisoned before a police court or trial justice to be examined and proceeded against.

What persons are liable to service as watchmen ?

Every able-bodied male of the age of eighteen years or upwards, but a man can hire a substitute.

What persons are exempt from this service ?

Justices of the peace, mayors, aldermen, selectmen, sheriffs, settled ministers of the gospel, and persons living more than two miles from the place where such watch and ward is kept.

How large must a village be in order that it may be made a watch district ?

It must have at least one thousand inhabitants.

**CHAPTER XXIV.**

**OF FIRES AND FIRE DEPARTMENTS.**

Who appoints firewards for towns ?

The selectmen appoint them annually, in March or April.

Is the person appointed obliged to serve ?

Yes, unless excused by the selectmen.

What is the first duty of the firewards ?

To be present at the fire with a suitable badge of office.

Who has power to order the demolition of buildings to prevent further spread of fire ?

The engineer in command.

What rule does the statute establish in reference to indemnifying the owner of the building demolished ?

(a.) If such pulling down or demolishing of a building is the means of stopping the fire, or if the fire stops before it comes to the same, the owner shall be entitled to recover a reasonable compensation from the town or city.

(b.) But when such building is that in which the fire first broke out, the owner shall receive no compensation.

What powers have the firewards besides that before mentioned ?

1. To command assistance for extinguishing fire and removing furniture, goods, or merchandise from a building on fire or in danger thereof, and to appoint guards to protect the same.

2. To command assistance for pulling down buildings.

3. To suppress all tumults and disorders at fires.

4. To direct the stations and operations of the enginemen with their engines and others extinguishing the fire.

What crime is it to purloin, embezzle, convey away, or conceal any furniture, goods, or chattels, merchandise, or effects of persons whose buildings are on fire or endangered thereby, and not, within two days to restore or give notice thereof to the owner if known, or if unknown to one of the firewards, mayor, and aldermen, or selectmen of the place?

**Larceny.**

What is the penalty for wantonly or maliciously injuring a fire-engine or the apparatus belonging thereto?

A fine not exceeding five hundred dollars, or by imprisonment not exceeding two years, and by being further ordered to recognize with sufficient surety or sureties for good behavior during such time as the court shall order.

Can the board of fire engineers prohibit the erection or maintenance of any defective chimney, hearth, stove, oven, etc., or the use of any mixture which may produce spontaneous combustion?

Yes, they may establish rules and regulations to prohibit or regulate the use of ignited materials in the open streets, as well as in buildings, and rules regarding whatever else may give just cause of alarm or be the means of kindling or spreading fire.

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## CHAPTER XXV.

### OF FENCES, POUNDS, ETC.

What is a legal fence?

A fence four feet high and in good repair, or whatever the fence-viewers shall consider equivalent thereto.

Who maintain partition fences?

The adjacent occupants of lands inclosed with fences shall maintain them, bearing the expense equally.

How is this enforced upon a person who neglects or refuses to



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bear his proportion of the expense of building and maintaining partition fences?

The party aggrieved may complain to two or more fence-viewers of the place, who may, if the fence is insufficient, direct the delinquent to repair or rebuild within fifteen days.

If the delinquent does not rebuild within fifteen days, what happens?

The fence is rebuilt by the complainant, and the expenses doubled for the delinquent, who is obliged to pay them or incur still heavier expense.

Who settles fence controversies?

The fence-viewers, two or more at a time hearing complaints.

What provisions does the statute make concerning stray cattle?

It requires each city and town to maintain one or more pounds sufficient for the purpose of keeping stray animals.<sup>1</sup>

Can cattle straying abroad be sold by the pound-keepers?

Yes, after due notice the cattle may be sold to defray the expenses of keeping them, and any money left is held subject to the order of the owners of the lost animals.

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### TITLE VIII.

#### OF THE PUBLIC HEALTH AND BURIALS.

#### CHAPTER XXVI.

##### OF THE PRESERVATION OF THE PUBLIC HEALTH.

By whom is the State Board of Health appointed?

By the governor.

<sup>1</sup> A recent statute (1869, 366) allows field drivers to impound cattle distrained by them in their own lands. This act must be accepted by the towns before the power is granted to field drivers.

What health officers are chosen by towns ?

A board of health consisting of not less than three nor more than nine persons is chosen each year.

What forms this board in cities ?

The city council may constitute either a separate committee or a branch of the city council as a board of health.

Who are responsible, if this board is not appointed by the city council ?

The city council itself.

What are the general powers of a board of health after proper publication of their regulations ?

1. To examine, destroy, remove, or prevent nuisances and causes of sickness. 2. To order nuisances abated. 3. To remove nuisances forcibly if necessary and at the expense of persons creating them. 4. To grant permits for removal of nuisances, infected articles, or sick persons. 5. To isolate infected persons and protect their districts from foreign infection. 6. To license undertakers.

How can their powers be enforced ?

By officers of the law with authority to impress into service houses for hospitals and all other necessities.

What rules are made concerning vaccination ?

Parents and guardians shall cause their children and wards to be vaccinated before they attain the age of two years, and revaccinated whenever the selectmen or mayor and aldermen shall, after five years from the last vaccination, require it.

What are the provisions made by towns for quarantine grounds ?

A town may establish a quarantine ground in a suitable place either within or without its own limits.

What are the seaport towns required to do ?

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1. To establish the quarantine to be performed by vessels coming within their harbors.

2. To order vessels supposed to be infected to be removed to quarantine ground, and there thoroughly purified at the expense of the owners of the vessel and cargo.

What are towns to do in case dangerous diseases exist within their limits ?

To establish hospitals. If no hospitals are established, the board of health shall immediately provide a hospital or place of reception for the sick and infected and cause the removal of any sick or infected person thereto, unless the condition of such person will not admit of his removal without danger to his health.

What duties have selectmen at times when any dangerous disease is prevalent ?

To use every possible precaution, assisting the board of health.

What is the law concerning the duties of householders and physicians having knowledge of the existence of dangerous disease ?

They shall immediately give notice thereof to the selectmen or board of health, and if they neglect or refuse to give such notice they are subject to a fine for each offence.

How are offensive trades restrained and controlled ?

The board of health — 1. Assigns places for the exercise of such trades. 2. Prohibits their exercise in places not so assigned ; and 3. May forbid the exercise of such trade within the limits of the town or in any particular locality thereof.

What may towns erect ?

Bathing and wash-houses.

OF TENEMENT HOUSES IN BOSTON.

How are tenement houses regulated ?

Rules are established to enforce cleanliness, safety, and health.

What is prohibited ?

The use of any cellar or underground room as a dwelling-house or sleeping-room without the consent of the board of health, or the keeping domestic animals in the house.

How are these regulations enforced ?

The owner must post his name on the house and the health officer has access to it at all times.

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CHAPTER XXVII.

OF THE PROMOTION OF ANATOMICAL SCIENCE.

What are overseers of the poor and other officers allowed to do with bodies about to be buried at the public expense ?

They may give them to any physician or surgeon to be used for the advancement of anatomical science, preference being given to medical schools established by law, where the bodies are used in the instruction of students.

What are such physicians required to do ?

Give bonds to the poor officers that each body shall be used for scientific purposes, and after having been so used that it shall be decently buried.

What are persons having charge of poor-houses required to do when a person required to be buried at the public expense dies ?

They must give immediate notice to the overseers of the poor, and permission for burial or for surrender to medical men for scientific purposes must be given.

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Under what circumstance must such bodies be interred without dissection ?

1. If the deceased person during his last sickness of his own accord requested to be buried.

2. If within twenty-four hours after his death any person claiming to be, and satisfying the authorities that he is a friend or of kindred to the deceased, asks to have the body buried.

3. If such deceased person was a stranger or traveller who suddenly died.

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### **CHAPTER XXVIII.**

#### **OF CEMETERIES AND BURIALS.**

How are cemeteries established and governed ?

By corporations formed for the purpose.

How are burial lots held by proprietors ?

They are held indivisible and are inheritable. If not devised to a specified devisee, the directors of the corporation designate who shall represent the heirs and become the actual holder of the lot.

What are cities and towns required to do about burial places ?

They must provide one or more places for the interment of persons dying within their limits.

How can burial grounds be enlarged ?

By taking adjoining land by proceedings before the county commissioners.

What is the penalty for impairing, injuring, or removing tombs, gravestones, etc., desecrating, or committing nuisance of any kind in a cemetery ?

A fine for each offence of not less than five nor more than one hundred dollars.

**TITLE IX.**

**CHAPTER XXIX.**

**OF THE PUBLIC RECORDS.**

**What kind of paper is required for public records ?**

Paper wholly made of linen, preference being given to paper of American or domestic manufacture.

**What are county commissioners, selectmen, city officers, and all other officers having charge of records required to do ?**

1. Have the records properly bound, indexed, and protected from fire and water.

2. When papers are becoming illegible, to have them copied and certified to be true, and take the place of the originals.

**What officers are specially forbidden to remove the records under their charge from their sole custody unless summoned to do so by a court of law ?**

Registers of deeds, registers of courts, and the registers and clerks of courts, cities, and towns.

**Is the public allowed to inspect records of the counties, cities, and towns ?**

Yes : and the officers, for reasonable fees, will compare and certify to the correctness of the transcripts from their respective records.

**TITLE X.**

**OF PARISHES AND RELIGIOUS SOCIETIES, AND OF  
RELIGIOUS, CHARITABLE, AND EDUCATIONAL  
FUNDS AND ASSOCIATIONS.**

**CHAPTER XXX.**

**OF PARISHES AND RELIGIOUS SOCIETIES.**

**What is the organization of most religious societies?**

They are corporate bodies, having power to hold real and personal estate for the purposes of religious worship and work.

**What are the rules concerning membership of these societies?**

1. Each society may prescribe the manner in which persons may become members.

2. No person except a member of such society shall have a right to vote.

3. No person shall be made a member without his consent in writing.

4. Any member wishing to resign his membership must file a written notice with the clerk of the society.

5. Any society or parish may admit women to all its rights and privileges.

**What are the officers of a religious society?**

Two or more assessors, a treasurer and collector, and a clerk.

**Who manage the affairs of such a society?**

The assessors, or a committee specially appointed for that purpose.

**What provisions are made to meet the peculiar organization of the Protestant Episcopal Church?**

The rector or one of the wardens may exercise the power of a moderator, and the wardens may be the

assessors and standing committee, but they must be elected by ballot.

For what objects may money be raised by assessing the property of members of the society in the same way that town taxes are assessed ?

1. For the settlement, maintenance, and support of ministers.
2. For the building or repairing houses of worship.
3. For sacred music.
4. For the purchase and preservation of burial grounds.
5. For all other necessary parish charges.

What kind of property is a pew ?

Personal property.

What new method of assessment of taxes is allowed ?

An assessment according to the value of the pews agreed upon, and recorded by the clerk.

What denominations of Christians are allowed to form under this general law their peculiar government, besides that already mentioned ?

The Methodist Episcopal and the African Methodist Episcopal.

What limitation is put upon trustees of these denominations ?

They are not allowed to control property exclusive of the meeting-house which returns an annual income of more than four thousand dollars.



## **CHAPTER XXXI.**

### **OF DONATIONS AND CONVEYANCES FOR PIOUS AND CHARITABLE USES.**

How are grants and donations, whether of real or personal estate, taken and held when given to churches, the poor of churches, or the deacons, wardens, or other officers of a church?

The deacons, churchwardens, or other similar officers, if citizens of the Commonwealth, are deemed bodies corporate for that purpose.

Can ministers, elders, or vestry be joined in conveyances with the officers before named?

Yes: they often are donees or grantees in deeds, and may take in succession any parsonage land granted to them or their successors, and they may prosecute and defend actions touching the same.

How do such corporate bodies derive their power to convey any lands of a church?

1. If made by deacons, the conveyance must be with the consent of the church, or of a committee of the church appointed for that purpose.

2. If made by churchwardens, the consent of the vestry must be obtained.

3. If made by a minister, the conveyance will be valid as long as the grantor is minister of the church where he is settled at the time of the conveyance. The consent of the same persons must be obtained to render the conveyance absolute.

What is the limitation put upon the income to be held as before mentioned?

Two thousand dollars a year, exclusive of the income of any parsonage lands granted to or for the use of the ministry.

## CHAPTER XXXII.

### OF ASSOCIATIONS FOR RELIGIOUS, CHARITABLE, AND EDUCATIONAL PURPOSES.

How are corporations for educational, literary, benevolent, scientific, musical, charitable, or religious purposes formed?

Seven or more persons having associated themselves by agreement in writing for any of these purposes, are required to record in the registry of deeds their articles of association, stating therein their purpose, and the place in which it is established.

How much property can be held for such purposes?

Real and personal estate necessary for the purposes for which the corporations were organized, not exceeding in amount one hundred thousand dollars.

What is said about taxation of such property?

Their estate shall not be exempted from taxation in any case where part of the income or profits of their business is divided among members or stockholders, or where any portion of such estate is used or appropriated for other than the purposes above set forth.

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## CHAPTER XXXIII.

### OF PUBLIC LIBRARIES.

What public libraries are there created by the statutes?

1. Town or city libraries, supported and increased by the towns or cities.

2. Incorporated library associations, holding real and personal estate for the purposes of such library. When allowing free access to all the citizens of the town or

city where the library is, they may receive the aid of such town or city.

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## TITLE XI.

### OF PUBLIC INSTRUCTION, AND REGULATIONS RESPECTING CHILDREN.

#### CHAPTER XXXIV.

##### OF THE BOARD OF EDUCATION.

Who are the persons belonging to the board of education?

The governor, lieutenant-governor, and eight others appointed by the governor with consent of the council, each serving eight years, one retiring each year in the order of appointment.

Generally speaking, what are the duties of this board?

1. To hold as trustees any money given to them for educational purposes.

2. To collect statistics and particular information about the public schools and other popular educational institutions of the Commonwealth.

3. To suggest to the legislature any reforms they may deem essential.

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#### CHAPTER XXXVI.

##### OF THE SCHOOL FUND.

How is the school fund managed?

It is invested by the state treasurer, and the income in each year applied to help the schools.

How is the income divided among the towns?

In proportion to the number of children.

What towns are excluded from its benefit ?

Towns which have not made the returns required by law, or have not raised a certain sum for each scholar by taxation.

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## CHAPTER XXXVIII.

### OF THE PUBLIC SCHOOLS.

What schools are all towns required to maintain ?

Public schools open for at least six months in each year, sufficient for the instruction of all children who may legally attend public school in the town.

What shall be taught in these schools ?

Orthography, reading, writing, drawing, English grammar, geography, arithmetic, the history of the United States, and good behavior.

What schools are towns of five hundred families required to maintain besides these common schools ?

High schools, in which instruction in higher branches of knowledge is given for ten months in each year at least.

Who has charge of the town schools ?

A committee chosen by ballot at town meetings, their number being divisible by three, and each member serving three years.

What are the duties of the school committee ?

1. To contract with teachers and examine them.
2. To dismiss teachers.
3. To examine schools.
4. To require the Bible to be read without note or comment, but no scholar need read from a version to which he objects.
5. To prohibit the use of school-books calculated to favor the tenets of any particular sect of Christians.

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6. To direct what books shall be used.

7. To procure a sufficient supply of books at the expense of the town, to be reimbursed to the town by taxation upon the parents, when able to pay for their children's books. But the town may itself furnish school-books.

8. To appoint a superintendent of schools and fix his salary.

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CHAPTER XXXIX.

OF SCHOOL DISTRICTS.<sup>1</sup>

How is land taken for school-houses?

By the selectmen, damages being assessed as in case of town ways.

Can districts in adjacent towns unite?

They can by a vote in town meeting.

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CHAPTER XL.

OF SCHOOL REGISTERS AND RETURNS.

How are reports on the condition of the public schools made up, and by whom are they transmitted to the state board of education?

The clerk of the town receives registers and blank forms of inquiry for school returns from the secretary of the board of education. These forms are sent to the

<sup>1</sup> These were abolished by Acts of 1869, chapters 110 and 423. By Act of 1870, chapter 190, the districts might be reëstablished by two-thirds vote of legal voters present, and voting thereon; and by Act of 1873, chapter 95: Any town in which such school district system *now exists*, may abolish the same by vote at a town meeting called for the purpose.

school committees, and they transmit them to the secretary, giving a detailed report of the condition of the schools and suggestions for future action.

How are the school committees assisted in making up their reports?

By the assessors who find out the numbers of the pupils, and the teachers who keep registers of attendance.

What statistics of educational institutions are kept besides these?

Trustees and other persons in charge of literary, scientific, or professional institutions of learning, whether incorporated, aided, or supported by the Commonwealth or private, and trustees of reform schools and almshouse, are required to report to the board of education.

How is this report made?

The board of education prepares blank forms in accordance with the requirements of the national board of education, which are left with the secretary of our state board, when the questions thereon are answered.

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## CHAPTER XLI.

### OF THE ATTENDANCE OF CHILDREN IN THE SCHOOLS.

What is required of parents, guardians, and all others having children under their control?

It is required that they shall cause children between the ages of eight and twelve to go to a public school in the town where the child lives at least twenty weeks of each year.

What exceptions to this rule are allowed?

1. If the party neglects to send children to the public schools on account of poverty.

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2. If a child is regularly attending a private school, or is otherwise furnished with means of education for a like period of time, subject to the approval of the school committee.<sup>1</sup>

How is this attendance enforced ?

By truant-officers, who may prosecute, when so directed by the school committee, any person neglecting, without proper reasons, this duty.

Where are children to go to school ?

In the place where they or their guardians have their legal residence, unless by some special arrangement they are allowed to go to an adjoining town or city.

Who determine the qualifications to be admitted into the schools ?

The school committee.

What qualification must the children have ?

They must have been vaccinated.

Can a scholar be excluded on account of race, color, or religious opinions ?

No.

What other provision may be made for the scholars ?

Money may be appropriated to carry them to school.

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## **CHAPTER XLII.**

### **OF THE EMPLOYMENT OF CHILDREN.**

What children cannot be employed in manufacturing establishments ?

No child under ten years of age, and only such between ten and fifteen as have attended school three months in each year.

<sup>1</sup> The school committee cannot object to any school on account of the religious teaching in said school.

How many hours may children under eighteen or women be employed in such establishments ?

Not more than sixty hours in each week.

What may be done with habitual truants and children growing up in ignorance ?

They may be committed to an institution for instruction or a house of reformation.

What other schools may towns provide ?

Industrial schools to teach arts and trades.

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## TITLE XII.

### OF WAYS, BRIDGES, PUBLIC PLACES, FERRIES, SEWERS, AND DRAINS.

#### CHAPTER XLIII.

##### OF THE LAYING OUT AND DISCONTINUANCE OF HIGH WAYS, TOWN WAYS, AND PRIVATE WAYS.

By whom are highways laid out, altered, or discontinued ?

The county commissioners.

What do they award to persons injured by such change ?

Damages.

Are the damages the full amount of injury sustained ?

Yes ; but any special benefit beyond what others receive is allowed by way of set-off.

If a party is dissatisfied with the action of the county commissioners, what is his remedy ?

He may have a trial by jury.

Who can lay out town ways, private ways, and footways ?

The selectmen or the road commissioners.

Who can discontinue them ?

The town.



Who assess the damages ?

The selectmen or road commissioners.

Who pay them ?

The town, if the way is a town way. If it is a private way, the person for whom it was laid out.

If the selectmen refuse to lay out or the town to discontinue ways, what is the remedy ?

To appeal to the county commissioners.

What remedy have persons aggrieved ?

A trial by jury.

Can a way become such by dedication ?

No, except footways.

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## CHAPTER XLIV.

### OF THE REPAIRS OF WAYS AND BRIDGES.

In what condition must roads be kept ?

Safe and convenient for travellers at all seasons of the year.

Who have charge of the highways ?

The surveyors of highways or the road commissioners.

What are some of their duties ?

To see that the ways are repaired and free from obstructions, and properly broken out in winter.

How may materials to repair ways be obtained ?

The town may take land for gravel pits.

If a person sustains damage to his adjoining land by such repairs, what is his remedy ?

He must first apply to the selectmen, and if aggrieved by their decision or neglect to decide, he can have a trial by jury.

If a person's life is lost by a defect in the way of which the town had notice, what penalty is imposed on the town ?

A fine of one thousand dollars for administrator of the person deceased.

If a man is injured in his person or property, by a defect, to whom may he look for damages ?

To the town or person obliged to repair the way.

When is such person or town excused ?

When they had no notice of the defect and it had not existed twenty-four hours.

If a town neglects to repair its ways, how may it be punished ?

By fine.

When four or more persons own a private way or bridge, what may they do ?

They may have a meeting called, appoint a surveyor, and raise money to make repairs, by assessment.

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## CHAPTER XLV.

### OF REGULATIONS AND BY-LAWS RESPECTING WAYS AND BRIDGES.

What must towns maintain on highways ?

Suitable guide-posts.

What may the selectmen establish ?

Public watering troughs.

How are shade trees protected ?

They are the property of the persons planting them, and any one who injures them is punished. Towns may set them out.

Can a person having a shade or ornamental tree standing in the highway cut it down ?

He must give the selectmen or road commissioners the opportunity to pay him for it and preserve it.

Who constructs the sidewalks ?

Except in cities, the owners of adjoining land may construct them, and the selectmen, or mayor and aldermen.

How is the use of ways and bridges regulated ?

The towns may establish regulations which shall be conspicuously posted up.

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## CHAPTER XLVII.

### OF FERRIES.

Who can maintain a ferry ?

Any person licensed by the county commissioners who shall establish the tolls.

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## CHAPTER XLVIII.

### OF SEWERS AND DRAINS.

Who lays sewers and main drains ?

The selectmen, or road commissioners.

How is land taken therefor and damages assessed ?

As in case of highways.

On what terms may persons enter their drains on the sewers or drains ?

By paying a proportional part of the expense of making them.

### OF THE BOARD OF HARBOR COMMISSIONERS.

Of whom does the board of harbor commissioners consist ?

Of five persons appointed by the governor, one each

What are their duties ?

A general supervision of all harbors and tide water and flats, to prevent encroachment and injury. They may fix harbor lines beyond which wharves cannot be extended. They also supervise the erection of wharves and filling of flats.

What are works not authorized by the legislature or harbor commissioners declared ?

Public nuisances.

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## TITLE XIII.

### OF THE REGULATION OF TRADE IN CERTAIN CASES.

#### CHAPTER XLIX.

##### INSPECTION AND SALE OF MERCHANDISE.

What articles must be inspected before sale ?

Butter, lard, fire-arms, fish, hay and straw, hoops and staves, hops, leather, lime, lumber, milk, pot and pearl ashes, bark, provisions, petroleum, and earth oils.

By whom ?

By the inspectors, appointed for that purpose.

What if they are not so inspected ?

A penalty is imposed, generally ten dollars, and the price cannot be recovered.

What other restrictions are imposed ?

The manner of packing and stamping many articles is regulated.

What are these articles ?

Butter, lard, chocolate, fish, gunpowder, hay and straw, hops, lime, nails, paper, ashes, wood, bread, commercial fertilizers, cotton thread.

Of what articles is the measurement and weighing provided for ?

Beef, bread, fruit, nuts and vegetables, grain, meal, hay and straw, leather, lumber, milk, ashes, potatoes, onions, salt, wood, bark, coal, herdsgrass seed.

What other provisions are there ?

The grades and qualities of many of these articles are fixed, and penalties are put upon all fraudulent evasions. The transportation and storage of petroleum and nitro-glycerine, and other explosives, is regulated.

What are the provisions about marble ?

It may be surveyed.

About metals and ores ?

Assayers are appointed to examine them.

About oils ?

The qualities are fixed and penalties imposed for adulterations.

How are the inspectors, weighers, and measurers paid ?

By fees, to be paid generally by the buyer.

What other business may towns regulate by by-laws ?

Dealing in junk, old metals, and second-hand articles.

#### OF THE INSPECTION OF GAS.

What are the duties of the inspectors of gas ?

To inspect gas-meters, seal them, and to examine the quality of gas furnished.

What is the standard quality of gas ?

A burner using five feet per hour must give the light of twelve standard sperm candles.

For what purposes may the officers of gas companies enter buildings lighted by them ?

To examine the apparatus, and ascertain the quantity of gas used, and stop the gas, if unpaid for.

What is the punishment for wilfully injuring the apparatus, or fraudulently burning gas ?

A forfeiture of one hundred dollars, and all damages.

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## CHAPTER L.

### OF AUCTIONEERS, HAWKERS AND PEDDLERS.

By whom are auctioneers licensed ?

By the mayor and aldermen, or the selectmen.

What may be required ?

That they shall give bonds that they will in all things conform to law.

What record must they keep ?

A particular account of all goods sold, and the person to whom they are sold.

What are they forbidden to do ?

To receive goods for sale from a minor, or to sell their own goods before sunrise or after sunset.

Where can they sell ?

Within their own county, and for others on the premises, where the goods are within the State.

Who else is punished ?

Any tenant or occupant of a house who allows them to sell illegally.

Who are excepted from this chapter ?

Any person required by law to sell.

For what else is an auctioneer punished ?

Fraud or deceit in a sale.

What articles may be sold from house to house without license ?

Fruit and provisions, live animals, brooms, agricultu-

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ral instruments, fuel, newspapers, books, pamphlets, agricultural products of the United States, and products of the seller's labor.

Who may regulate the sale of such articles by minors ?

Cities or towns.

Of what articles is the sale by peddlers prohibited ?

Jewelry, wines, liquors, playing-cards, indigo, and feathers.

Who grants licenses for the sale by peddlers of other articles ?

The secretary of the commonwealth.

What more must the peddler do ?

Post his name, number and residence, on his vehicle or packages.

How are violations of these provisions punished ?

By a heavy fine.

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**CHAPTER LI.**

**OF WEIGHTS AND MEASURES.**

What weights, measures, and balances are the standard ?

Those received from the United States and now in the state treasury.

What measures have the counties and towns ?

Sets furnished by the state treasurer, and made to conform to those in the treasury.

How often must they be compared with the standards ?

Once in ten years.

What is required of persons using scales, weights, measures, or milk cans, in buying or selling ?

To have them compared with the standards, and sealed once a year by the sealer.

What if a person sells by unsealed weights or measures ?

He may be fined, and cannot recover the price of the goods sold.

What is to be understood by a "hundred weight?"

One hundred pounds avoirdupois.

How are salt and grain measured ?

In such towns as so vote, in a measure with a transverse bar and striking lengthways of the bar.

How is the surveying of land regulated ?

The county commissioners establish a meridian line by which surveyors must adjust their compasses annually.

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## CHAPTER LII.

### OF SHIPPING AND PILOTAGE.

By whom are pilots appointed and removed ?

By the governor, with the advice of the council.

What are their duties ?

To pilot vessels into the harbors of the State.

Who pays them ?

The vessels which they pilot are liable for their fees.

Can a vessel refuse to take a pilot who offers himself ?

Yes ; but they must pay his full fees.

To what extent is a ship-owner liable for embezzlement or injury to goods by the master or mariners ?

Only to the extent of his interest.

Who can board vessels before they are made fast to the wharf ?

Only pilots or public officers, or persons having leave from the master or owner.

What privilege have seamen ?

They cannot be arrested for debts due their landlord, nor their goods detained.



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How is any person punished who entices seamen to desert ?

By fine.

What is the provision concerning vessels transporting stone, gravel, or sand ?

Sworn weighers must examine them and mark on them by permanent marks, how far they sink with the weight of each ton of cargo.

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**CHAPTER LIII.**

**OF MONEY, BONDS, BILLS OF EXCHANGE AND PROMIS-  
SORY NOTES.**

What rate of interest is allowed on money ?

Six dollars on each hundred for one year, but the parties may agree in writing for any other rate.

How are bonds payable to bearer, or to order, issued by corporations, negotiable ?

Like promissory notes.

When the day of performance of a contract falls on Sunday, or on a legal holiday, when is it to be performed ?

On the day before.

What are such holidays ?

Thanksgiving, Fast, or Christmas Day, the twenty-second day of February, and Fourth of July, or when the two last fall on Sunday, the day following.

When must payment of a note payable on demand be demanded ?

Within sixty days from its date.

On what are the three days of grace allowed ?

On all bills, notes and drafts, except those payable on demand. If a draft has no time of payment expressed, it is payable on demand.

## CHAPTER LIV.

### OF AGENTS, CONSIGNEES, AND FACTORS.

What protection is given to those dealing with agents ?

A person having lawful possession of goods, with power to sell, is deemed their owner for most purposes.

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## CHAPTER LV.

### OF LIMITED PARTNERSHIPS.

By whom and for what purposes can limited partnerships be formed ?

By two or more persons for any mercantile, mechanical, or manufacturing business, except banking or insurance.

How are they made up ?

Of general and special partners. The special partners put in a specific sum in cash, and are not personally liable for the debts.

What certificate must they file with the secretary of state ?

One giving the names of the general partners, and of the special partners, and their residences ; the amount each special partner puts into the business, and the time of beginning and end of the partnership.

What else must be done ?

The certificate must be published six weeks.

How is the partnership renewed ?

By a new certificate.

What, if these directions are not obeyed ?

The partnership is general, and each partner is liable for all the debts.

Can any of the capital be withdrawn ?

No.

## CHAPTER LVI.

### OF TRADE-MARKS AND NAMES.

If a person has a particular name, mark, or device which he uses as a trade-mark for his goods, how is he protected in its use ?

Any one who uses it without his consent must pay him for all damages.

Can a person use another's name in business ?  
Not without his consent.

### OF PUBLIC WAREHOUSES.

What is the object of public warehouses ?  
The storage of goods.

What bond must the warehouseman give to the state treasurer ?

A bond for the faithful discharge of his duties.

How is title of goods in such warehouse passed to a purchaser ?

By a delivery of the warehouseman's receipt, indorsed by the owner. Notice of such indorsement must also be entered on the warehouse books.

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## TITLE XIV.

### OF CORPORATIONS, AND PROPRIETORS OF COMMON LANDS.

## CHAPTER LVII.

### OF BANKS AND BANKING.

What business can banks do ?

Receive deposits and loan money by discounting on banking principles.

What amount of specie must they keep ?

Fifteen per cent. of the liability for circulation and deposits.

What is a bank prohibited from doing ?

Employing any of its property in trade or commerce.

How is the voting carried on at bank meetings ?

One share has one vote ; beyond that, one vote for every two shares up to ten votes.

Who can carry votes as a proxy ?

Any one but a salaried officer of the bank.

How many directors can a bank have ?

Not less than seven, and if the capital is over five hundred thousand dollars, nine ; nor more than twelve.

What qualifications are necessary for a director ?

He must be a citizen and a stockholder, and not the director of another bank.

Who can remove them ?

The stockholders.

What bills may banks pay out ?

Only their own or United States treasury notes.

When, and how, are their bills payable ?

In specie at the bank.

What are the liabilities of stockholders ?

To make good any loss of capital stock by the mismanagement of directors, and to pay the bills, if the bank stops payment.

What can the state demand of the banks ?

Loans.

What else are they required to do ?

Make returns to the secretary of the commonwealth.

Who may investigate the condition of a bank ?

Committees of the legislature, and committees on behalf of one eighth of the stockholders.

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How may a bank be organized under the general banking law ?

By filing a certificate in the registry of deeds and the office of the secretary of state.

What bills can they circulate ?

Such as are issued to them by the auditor of accounts, they depositing an equal value of public stocks.<sup>1</sup>

By whom are the officers of savings banks chosen ?

The trustees by the members of the corporation, and the treasurer by the trustees.

Who can be elected a member ?

Residents of the State.

How can a savings bank invest its funds ?

Only in certain ways limited by law.

How are applications for loans made ?

In writing, to the secretary.

Can the bank or any one in its interest take commissions on its loans ?

None other than appear on the face of the papers.

How often may dividends be made ?

Ordinary ones every six months. Extra dividends as often as the by-laws provide.

Who has the general supervision of savings banks ?

The commissioner of savings banks.

What return must they make ?

An annual return to the commissioner, and to the assessors of the towns, where their depositors, and persons to whom they have loaned money, live.

<sup>1</sup> The provisions of this chapter apply only to state banks.

## CHAPTER LVIII.

### OF INSURANCE COMPANIES.

By whom are insurance companies supervised ?

By an insurance commissioner appointed by the governor, holding office for three years.

What are his duties ?

To examine the accounts and condition of companies, to cause them to suspend business if insolvent, to report violations of law to the attorney-general, and to make an annual report.

How may insurance companies be divided with reference to their mode of doing business ?

Into companies having specific capital ; mutual companies, and mutual companies with a guarantee capital.

How with reference to the subjects of their business ?

Into marine, fire, life, and accident.

How with reference to their location ?

Into state and foreign.

What are companies having specific capital, or stock companies ?

They are corporations which insure for their own profit, the persons insured having no interest in the profit.

What are the mutual companies ?

In them the insured are the members, and the losses are assessed on them. Usually, the person taking a policy pays a premium in money, and gives a note for a further sum.

What are the mutuals with the guarantee capital ?

A union of the other two, the capital being first liable for the losses.

What must insurance policies contain on their face.

All provisions, or extracts from the by-laws, or applications which are intended to limit their meaning.

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**What are the liabilities of members in mutual companies ?**

**To be assessed to an amount equal to his cash premium and deposit note.**

**What are the liabilities of the officers ?**

**The directors make themselves personally liable, if they neglect to lay an assessment, and the treasurer, if he neglects to collect it.**

**If a person pays a life insurance premium with intent to defraud his creditors, what relief have they ?**

**An amount equal to the premium, with interest, inures to their benefit.**

**If the insured fails to pay his premium, how long does his insurance last ?**

**As long as what is already paid would purchase temporary insurance.**

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## **CHAPTER LIX.**

### **OF LOAN AND FUND ASSOCIATIONS.**

**What are loan and fund associations ?**

**Corporations formed for the purpose of accumulating a fund to be lent on real estate security to its members, or divided among them.**

**To whose inspection are they subject ?**

**That of the insurance commissioners.**

**When does their existence terminate ?**

**When its shares are redeemed, or its funds are sufficient to pay the value of the unredeemed shares.**

## CHAPTER LX.

### OF CORPORATIONS.

What corporations can be formed by individuals, by associating themselves together by an agreement in writing ?

Those dealing in ice, or carrying on any horticultural, mechanical, mining, quarrying, or manufacturing business ; opening canals, propagating fishes, making gas, doing business as common carriers, coöperative associations, erecting hotels and halls ; libraries and railroads ; musical associations, or any other legal business.

What kinds of business are forbidden to voluntary associations ?

Distilling or manufacturing intoxicating liquors ; dealing in real estate, and banking.

How is their formation regulated ?

A certain number of persons must join, and the amount of the capital stock must be within certain limits.

What must be done as soon as the company is organized ?

A sworn certificate by the president, treasurer, and majority of the directors must be submitted to the commissioner of corporations, and if satisfactory to him, be filed with the secretary of state.

What must this set out ?

The agreement, the names of the subscribers, and the date of the first meeting.

What is then the duty of the secretary of state ?

He is to issue to them a certificate, which shall have the force of a special charter.

When are the officers of a corporation liable for its debts ?

1. For dividends made while the corporation is insolvent.

2. For debts contracted while money is loaned to a stockholder, to the amount loaned.



3. To the amount of any excess of debts over capital at the time the suit is brought.

4. Any officer signing a certificate required by law, knowing it to be false.

5. All officers of mining, oil, or land companies, doing business without the State, for taxes.

When are the members or stockholders liable?

1. For debts contracted before all the capital is paid in, if they have not paid in their full share.

2. When the capital is reduced, to the amount of the money repaid to the stockholders.

3. When certain corporations, under special charters, fail to publish a list of assessments and debts.

4. While special stock is outstanding.

5. For claims of operatives within six months before demand of payment and refusal.

How is a debt enforced against officers or members?

By taking judgment against the corporation, and if they do not satisfy it in thirty days after demand, bringing a bill in equity.

What is the limit of a stockholder's liability?

An amount equal to the par value of the stock.

What special provisions are made with reference to coöperative associations?

A part of the profits are to be retained for a contingent or sinking fund. Each stockholder has one vote only.

With regard to fishing associations?

Before operating in a town, they must get the consent of the selectmen.

With regard to gas-light companies?

They may dig up streets and lay pipe, with the consent and under the supervision of the selectmen.

What penalties are imposed ?

Any corporation and its officers, neglecting to file the certificates and returns required, is subject to a fine.

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## CHAPTER LXII.

### OF TURNPIKES.

How are the tolls fixed ?

By the statutes, and the rates must be conspicuously posted at each gate.

Who are exempted from paying toll ?

Persons on foot ; riding to public worship or military duty ; residing in the town where the gate is, when he is not going out of town or returning to it ; going to a grist-mill, or on the ordinary business of his family.

What penalties are imposed ?

On travellers for evading toll, using wheels contrary to law, locking wheels without putting under a shoe, or giving a false statement of the weight. On the corporation and its servants for exacting illegal toll. On others for opening a road to avoid gates.

To whom is the corporation liable ?

To any one injured by want of a proper road. Also to indictment and fine to be used in repairing the defect.

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## CHAPTER LXIII.

### OF RAILROADS.

Who have the general superintendence of railroads ?

Three railroad commissioners appointed by the governor.

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How are railroad corporations organized ?

Under a special charter, or by a voluntary association of twenty-five or more persons.

After obtaining a charter, what is the next step ?

To file with the commissioners of each county through which it passes a particular description of the location adopted.

How are the damages for the right of way fixed ?

By agreement, or, if the parties cannot agree, by the county commissioners with a right to appeal to a jury.

What further power have the commissioners ?

To order the construction of all necessary embankments, drains, culverts, fences, or other structures.

What is the corporation's duty as to fences ?

On all roads constructed since 1846, they must maintain the fences.

What else must they do ?

Furnish the owner of land taken a plan of it, if he requests it.

How are they to arrange their crossings of turnpikes, highways, and town ways.

They must go over or under them, unless the county commissioners consent to a level crossing.

Who have jurisdiction of all questions about such crossings ?

The county commissioners.

What is the corporation's duty at draw-bridges ?

To provide a steady, discreet, and experienced superintendent, and provide signals.

What brakemen must be placed on trains ?

One for every two passenger cars, and one on the rear car of every freight train.

What must be done at street crossings ?

A sign must be put up, and, if ordered by the county commissioners, a flagman or gates maintained.

What is the duty of the engineers at such crossings?

To sound the whistle or bell for eighty rods continuously.

What is his duty where the road crosses another railroad?

To stop his engine within five hundred feet of the crossing, and run slowly over it.

What punishment is imposed on any engineer or other employé who causes injury by his negligence?

Imprisonment not over a year, and fine not over one thousand dollars.

For gross carelessness or neglect in managing a passenger train?

Imprisonment not over three years, and fine not over five thousand dollars.

If a person is killed by the fault of the corporation or its agents, what penalty is imposed?

A fine of from five hundred to five thousand dollars, for his widow and children.

What is their liability about fires?

They must pay all damages by fires set by their engines.

How is the use of the track protected?

Any person who walks on the track, or drives cattle, or allows them to lie on it, or obstructs it in any way, is punished.

What accommodations must railroads furnish for their passengers?

Reasonable accommodation for their convenience and safety.

What is their duty about baggage?

If requested, they must give checks.

What tolls can they charge?

They must be reasonable, equal, and proportionate to the distance, and are subject to the revision of the legislature.

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What else is their duty ?

They must give equal facilities to all persons dealing with them.

What is the provision about bonds ?

By a vote of a majority of the stockholders, they may issue bonds to an amount not exceeding their capital, which must be signed by one of the finance committee.

What report must they make ?

An annual report to the secretary of state.

When and at what price may the Commonwealth purchase a railroad ?

After it has been opened for use twenty years, by paying a sum equal to the capital and ten per cent. interest.

Who locate the track of a horse-railroad ?

The aldermen or selectmen.

Can the location be revoked ?

It can after one year.

What is the duty of horse-railroads about the streets in which their tracks are laid ?

They must keep them in repair so far as occupied by them, and are liable for all damages.

Who establishes regulations about the track ?

The aldermen or selectmen.

What other regulation is imposed ?

No one is allowed to obstruct the tracks, and the company is not allowed to obstruct the streets.

What accommodations must they furnish ?

Reasonable accommodations.

By whom are the rates of fare fixed ?

By the directors.

By whom revised ?

By the railroad commissioners, at the request of the aldermen, selectmen, or fifty voters.

What are the regulations about driving cars ?

They must be stopped within one hundred feet before crossing a steam-railroad track. They must not pass a car standing on a parallel track at a faster rate than a walk.

To what penalty are they liable ?

To a fine of from five hundred to five thousand dollars, if any person is negligently killed.

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## CHAPTER LXIV.

### OF TELEGRAPH COMPANIES.

What right have telegraph companies to put up wires ?

They may construct them upon and along public roads, but not so as to obstruct them.

Who directs the manner of constructing them ?

The aldermen or selectmen.

What damages must they pay ?

To the owner of the land, to be assessed by the mayor and aldermen, or selectmen, with a right to trial by jury.

What is their duty about dispatches ?

To receive them from other telegraph lines, and faithfully transmit them.

Can a right to maintain the wires be acquired by lapse of time ?

No.

How are the wires and other property protected ?

Any one who injures them is fined.

Can towns construct lines for their own use ?

Yes, and allow private individuals to do so,—the line being the property of the town.

CHAPTER LXV.

OF AQUEDUCTS.

How are the proprietors of aqueducts incorporated ?

By a written agreement, the first meeting being called by a justice of the peace.

How much real estate can they hold ?

Not exceeding thirty thousand dollars in value.

What right have they in the streets ?

With the written permission of the selectmen, they can dig up the streets to lay their pipes.

If a person maliciously injures an aqueduct, how is he punished ?

He is fined, and is liable to treble damages to the corporation.

What right has the town ?

To put in hydrants and use the water in case of fire.

How can persons whose land or water is taken recover damages ?

By the same proceedings as in case of railroads.

Can towns establish water-works ?

They can buy any water-works already established and issue bonds to pay for them.

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CHAPTER LXVI.

OF AGRICULTURAL AND HORTICULTURAL SOCIETIES.

What do incorporated agricultural societies receive from the State ?

If they have raised a capital of one thousand dollars they can draw two hundred dollars, and in that proportion up to six hundred.

**What must they do to entitle themselves to it ?**

**They must file a certificate of their capital, and make return of their doings yearly.**

**What powers have they ?**

**To preserve peace and good order, and to control all booths, and other temporary places of sale within half a mile of their fairs.**

**What do farmers' clubs receive ?**

**Copies of the report and other publications of the board of agriculturo. They must make return of their experiments and reports.**

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## **CHAPTER LXVII.**

**WHARVES, GENERAL FIELDS, AND COMMON LANDS.**

**When and how can the proprietors become a corporation ?**

**When they number five or more, by applying to a justice of the peace, who issues a warrant calling the first meeting.**

**How do they vote ?**

**According to the number of their shares, or the amount of their interest. They may vote by proxy.**

**How can they raise money ?**

**By assessments on these shares.**

**When can they sell their property and divide the proceeds ?**

**By a vote of over two thirds when they number ten or more.**

**When, in such case, does the corporation cease to exist ?**

**After the expiration of ten years.**

**If the proprietor of a common field puts his cattle in at improper times, what is the remedy ?**

**He is a trespasser.**



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If a stranger's cattle trespass on his part, who sues ?

He may sue as if an individual proprietor.

How is the fence divided ?

In proportion to the land cultivated or used by each.

If a proprietor does not use or cultivate his land he need not share the expense of fencing.

In case of sudden destruction of the fence, exposing the crops, what is the duty of the proprietor ?

He must repair within twenty-four hours after notice from a fence-viewer, or pay double the expense.

How are the lines preserved ?

They are to be run every two years, and permanent bounds set.

How is a general field discontinued ?

By a vote of a majority in interest of the proprietors.

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CHAPTER LXVIII.

OF POWERS, DUTIES, AND LIABILITIES OF CORPORATIONS.

What are their general powers ?

To sue and be sued in their corporate name ; appear, prosecute, and defend suits to final judgment and execution ; have a common seal, alterable at pleasure ; elect all necessary officers ; fix their compensation, duties, and obligations, and make by-laws and regulations.

When must they be organized ?

Within two years after they are chartered.

What may they determine by their by-laws ?

The manner of calling and conducting meetings ; what number of members shall be a quorum ; the number of shares to give one vote ; the mode of voting by proxy, and of selling shares for unpaid assessments, and the

tenure of the offices ; and they may annex a penalty to their by-laws.

Has a stockholder a right to inspect the list of stockholders ?

Yes, always.

When stock is pledged, what is required ?

The debt must be described in the instrument of transfer. The certificate issued to the pledgee must state that it is a pledge.

How may a corporation be dissolved ?

The supreme court have full power to decree a dissolution and effect a settlement of its affairs.

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## TITLE XV.

### OF THE INTERNAL POLICE.

#### CHAPTER LXIX.

##### OF THE SETTLEMENT OF PAUPERS.

How do paupers acquire a settlement ?

1. A married woman takes her husband's settlement.
2. Children take their father's settlement ; or, if he has none, their mother's, till they acquire one of their own.
3. Illegitimate children take their mother's settlement. Children take no settlement by birth, if neither parent had one.
4. A person of age, who has an estate of freehold or inheritance, and lives on it three years, gains a settlement.
5. Or if he is assessed on an estate valued by the assessors at two hundred dollars principal, or twelve dollars income, and is taxed for it five years at his home.
6. Or if he is chosen, and serves for one year as clerk,

selectman, treasurer, overseer of the poor, assessor, constable, or collector of taxes.

7. Or is a settled ordained minister.

8. Or admitted an inhabitant by any place at a legal meeting.

9. Or lives in a place when it is incorporated.

10. When a town is divided or changed, those living within its limits, who already have settlements, or gain a settlement there.

11. A minor who serves a four-year apprenticeship, and in one year sets up such trade and carries it on five years, gains a settlement.

12. So any person of age, who lives five years together in a place and pays all his taxes.

13. So any unmarried woman of age, who lives in a town five years without receiving relief.

14. Any soldier who served one year, and the wife or minor children of any soldier who died in the service, or of disease contracted there, gain a settlement in the town to whose quota he was credited, or if not credited, where he resided at his enlistment.

How long does a settlement continue ?

Till a new one is acquired.

How far back are settlements valid ?

All acquired before 1794 are abolished.

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## CHAPTER LXX.

### OF THE SUPPORT OF PAUPERS.

What is the duty of a town to persons settled therein ?

To support them when in need.

What are the duties and powers of the overseers ?

To have the care of such persons, to see that they are relieved, supported, and employed. They may remove children to the almshouse who are neglected ; they have the same power over those under their charge that the masters of workhouses have over those committed thereto.

Who are bound to support such poor persons ?

Their kindred in the degree of father or mother, grandfather or grandmother, children or grandchildren, if able.

Who has power to determine this ?

The superior court, on complaint of one who has supported a pauper, may fix the proportion each relative shall pay and enforce payment, and may order with which of them the pauper shall live.

How are strangers relieved ?

By the overseers where they are, and the expense is chargeable to the place of their settlement, or, if they have none, to the State.

To whom else is the town liable for the support of their paupers ?

To any person who relieves them after notice to the overseers, until provision is made.

What may be done with non-resident paupers ?

They may be removed to their place of settlement.

What is the penalty for bringing a pauper into a place with intent to charge such place with his support ?

One hundred dollars.

What right have the overseers in the estate of a pauper deceased ?

They may sell enough of it to repay the town their expenses.

What is done with insane paupers ?

They may be sent to the asylum.

What return and records must the overseers make ?

Annual returns to the board of state charities, and records of paupers, travellers, and vagrants relieved.

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## CHAPTER LXXI.

### OF ALIEN PASSENGERS AND STATE PAUPERS.

Of whom does the board of state charities consist ?

Of five persons appointed by the governor, with the general agent and secretary.

What are their duties ?

Oversight of paupers and lunatics, their removal, the prosecution of cases of settlement and bastardy, the taking bonds from persons bringing into the State aliens, the supervision of the state workhouse and primary school, and of children bound out by the State, and of the Rainsford Island Hospital.

What must the master or owner of a vessel, having passengers liable to become paupers, do before landing them ?

Give bond that they shall not become a public charge within ten years, and so of any corporation bringing aliens here, except that the time then is two years.

If they do become paupers, who is liable for their support ?

The person or corporation who brought them here.

Who make reports to the board of state charities ?

Overseers of the poor, of charitable and penal institutions, and private charitable institutions receiving state aid.

Who are received at the Rainsford Island Hospital ?

Foreign paupers arriving by water, and paupers sent by town authorities.

What are the state institutions for paupers?

An almshouse, with provision for the criminal insane, a workhouse, and primary school. Criminals are also confined in the two last.

What other powers have the board of charities?

They may apprentice, discharge, or remove from the State any inmate of the workhouse.

What are the officers of these institutions?

Superintendents and inspectors.

What limitation is there on the power of removal of paupers?

Husband and wife cannot be separated.

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## CHAPTER LXXII.

### OF THE MAINTENANCE OF BASTARD CHILDREN.

Who are obliged to support bastard children?

The father must contribute to their support, as the court, on the complaint of the mother, the overseers of the poor, or the agent of the board of state charities, shall order.

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## CHAPTER LXXIII.

### OF THE STATE LUNATIC ASYLUM.

Who govern the lunatic hospitals?

Boards of five trustees, each.

When must they visit them?

Two trustees must visit monthly, a majority quarterly, and the whole board semi-annually.

By whose authority can persons be committed as lunatics?

That of any judge of the supreme, superior, or pro-

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bate courts, or the police court of Boston, after a hearing and a trial by jury, if thought best.

What is the duty of the overseers of the poor ?

To send insane persons to the hospital.

Of the board of state charities ?

To have insane persons not properly cared for sent there.

How are persons discharged ?

By two of the trustees, any judge of the supreme court, and the judge of the probate court, either of the county where the hospital is, or where the person resides, after due notice and hearing.

If a person is improperly confined, what is the remedy ?

Any person may apply to a judge of the supreme court, who, after examination and notice, will try the matter by jury, if it is asked for.

What remedy has the person confined ?

He may himself, or any person in his behalf, apply to the agent of the board of charities, who will investigate the case.

What is done with the incurable insane ?

They may be sent back to their homes.

What is done with persons acquitted of crime by reason of insanity ?

A receptacle is provided at the Tewksbury almshouse.

Who can keep a private asylum ?

Any person licensed by the governor.

To whose visitation is it subject ?

To that of the governor and council, and the judge of probate for the county.

CHAPTER LXXIV.

OF COUNTY RECEPTACLES FOR THE INSANE.

What other provision is made for the insane ?

County receptacles at the house of correction for those not furiously mad.

Who can make commitments to them or discharge from them ?

Two justices of the peace, or a police court, after a trial by jury, if asked for.

Who else can discharge those sent from the state asylums by the trustees ?

The county commissioners. They may also provide for such insane persons elsewhere.

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CHAPTERS LXXV AND LXXVI.

OF THE INDUSTRIAL SCHOOL FOR GIRLS AND THE  
REFORM SCHOOL FOR BOYS.

How are the schools governed ?

By a board of seven trustees, except the girls' industrial school, where the board is ten, three of whom must be women.

What are their duties and powers ?

To take the general superintendence of the schools, to provide employment, to discharge or bind out the inmates.

Who are committed to the schools ?

Girls and boys guilty of crime, not punished by imprisonment for life, or leading idle, vagrant, or vicious lives, or found in public places in want, or suffering, or in circumstances of neglect, exposure, abandonment, or beggary.



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How long are the inmates to be detained or bound out ?

Till the girls are eighteen, the boys, twenty-one.

In what are they to be instructed ?

In piety, morality, and useful knowledge, and in some regular course of labor.

How often must the schools be visited ?

Once in two weeks by one trustee, once in three months by a majority.

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**CHAPTER LXXVII.**

**OF THE LAW OF THE ROAD.**

What is the duty of persons meeting each other on the highway ?

To turn to the right of the middle.

When they are going the same way, which way must the driver passing turn ?

To the left.

What is the duty of a person travelling with a sleigh or sled ?

To have at least three bells attached.

What is the penalty for violating the provisions of this chapter ?

A forfeiture of twenty dollars, and payment of all damages.

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**CHAPTERS LXXVIII AND LXXIX.**

**OF GOODS AND BEASTS LOST OR ASTRAY.**

If timber is cast ashore, when can it be removed ?

Within six months.

What is the penalty for unlawfully altering marks on timber afloat ?

A fine of ten dollars for each log, and damages.

And for taking such timber?

A fine from five to twenty dollars, or imprisonment.

If a person finds goods or cattle, what is his duty?

To post up notices, notify the town clerk, and cause the same to be cried by the town crier.

If he neglects this, what is the penalty?

He loses the right to any compensation for his trouble or expense, and must account to the owner for the value, and is fined twenty dollars.

What must the owner do on reclaiming the goods?

Pay all expenses. If they disagree about them, they are to be referred to some justice of the peace.

If no owner appears in a year, what is done?

The finder must pay one half the appraised value to the town treasurer, after deducting the expenses. The rest he can keep.

What is done with stray cattle?

After three months they are sold, and the proceeds kept for the owner a year, then divided as above.

If the owner takes them without paying the charges, how is he punished?

The finder may recover their full value of him.

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## CHAPTER LXXX.

### OF UNCLAIMED PROPERTY TRANSPORTED BY COMMON CARRIERS.

What is done with such property?

After due delay, it is sold, and the net proceeds held for three years, then paid to the commonwealth.

**CHAPTER LXXXI.**

**OF WRECKS.**

Who has charge of wrecks.

Commissioners appointed by the governor.

Can any other person interfere with them ?

Not after his arrival.

What is his duty ?

To preserve the property, and if necessary, sell it, and after satisfying lawful charges, hold the rest for the owner.

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**CHAPTER LXXXII.**

**OF THE PRESERVATION OF BIRDS AND ANIMALS.**

What birds is it unlawful to kill at certain seasons ?

Woodcock, grouse, quails, heath-hens, wood duck, black duck, teal, marsh, beach or shore birds, or any other undomesticated birds, except birds of prey, black-birds, crows, herons, bitterns, or Canada geese.

What else is punished ?

Having in possession such birds, or destroying their nests, or taking them at any season by nets or snares, or by battery, swivel, or pivot guns.

What exception is there ?

Birds may be taken as specimens, or for scientific purposes.

What animal is protected ?

Deer. Any dog chasing them in Barnstable or Plymouth counties may be killed.

CHAPTER LXXXIII.

OF FISHERIES, KELP, AND SEA-WEED.

In what way is it unlawful to take fish ?

By poison, or to take pickerel, trout, or salmon, except by a hook and line, and other fish at certain seasons.

What restrictions are there ?

Fishing in many rivers and ponds is prohibited or regulated by special statutes.

Who have the general supervision of the fisheries ?

The commissioners of inland fisheries.

What are their duties ?

To see that proper fishways are provided over dams and the laws are enforced.

How is the propagation of fish encouraged ?

By allowing to the owner of any pond of less than twenty acres, or stream not navigable, the control of it. The commissioners may also lease larger ponds for that purpose.

Who owns the fish artificially propagated or maintained ?

They are the absolute property of the person maintaining them.

What penalties are imposed on those who violate the provisions of the fish acts ?

A fine, and the forfeiture of their boats, nets, lines, and other apparatus.

How may towns encourage fisheries ?

By opening ditches, sluices, or canals into ponds, and regulating and leasing such fisheries.

How is the oyster fishery regulated ?

It is under the control of the selectmen, who give

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permits. They may also grant licenses to plant oyster beds.

Who may take kelp or sea-weed ?

Any one while it is actually afloat in tide-water.

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CHAPTER LXXXIV.

OF THE LORD'S DAY.

What is forbidden on the Lord's day ?

All labor, business, work, or travelling, except from necessity or charity, or presence at any public diversion, or taking part in any sport, game, or play.

Who may innholders entertain on that day ?

No one but travellers, nor on the evening before.

What else is prohibited on Sunday ?

The service of writs.

How are persons behaving rudely or indecently within the walls of a house of public worship punished ?

By a fine of not over ten dollars.

Who are excepted from the operation of this chapter ?

Those who conscientiously observe Saturday, provided they do not disturb others.

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CHAPTER LXXXV.

OF GAMING.

Can money lost at gaming be recovered ?

Yes.

Who can sue, if the loser does not ?

Any person after three months, and recover treble the value.

Who is liable besides the winner ?

The owner, tenant, or occupant of the building where the gaming or betting takes place, if it was done with his knowledge or consent.

Is gaming unlawful ?

Yes. Any person keeping a gaming-house is punished by fine and imprisonment.

How are persons playing for money on public conveyances punished ?

By fine or imprisonment.

Are notes, mortgages, or deeds given for gambling debts, valid ?  
No, they are void.

If a mortgage or deed is avoided, to whom does the land go ?

To the person who would take it if the grantor were dead.

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## CHAPTER LXXXVI.

### OF THE MANUFACTURE AND SALE OF LIQUOR.

What are the duties of the liquor commissioner ?

To procure pure liquor and sell it to the town agents.

Who can give authority to manufacture liquor for exportation ?

The county commissioners.

What is the manufacturer required to do ?

To keep books showing all his sales, and to give bond.

What is the duty of towns and cities ?

To appoint liquor agents, or authorize a druggist to sell.

What must the agent do ?

Keep an account of all purchases and sales.

For what purposes may he sell ?

For use in the arts, for medicinal, chemical, and mechanical purposes.

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**If a person states the purpose for which he is purchasing falsely to the agent, how is he punished ?**

**By fine of from five to twenty-five dollars.**

**What are the duties of the inspector and assayer of liquors ?**

**To analyze the liquors kept by the commissioner and agents.**

**What sales are legal ?**

**Of imported liquor in the original packages, of alcohol by druggists, of wine for sacramental purposes, of cider not at a public bar, or to be drunk on the premises.**

**What is forbidden ?**

**Any sale not allowed by this act, or keeping for sale.**

**What is the punishment ?**

**For the first offence, a fine of ten dollars and from twenty to thirty days imprisonment ; for the second, double ; for a subsequent offence, fifty dollars fine and three to six months imprisonment.**

**What is the penalty on a manufacturer or common seller ?**

**For the first offence, fifty dollars fine and from three to six months imprisonment ; for the second, two hundred dollars and twelve months.**

**What else is punished ?**

**Keeping liquor with intent to sell, carrying liquor illegally sold, bringing it into the State to sell.**

**If a person sells liquor to a person who drinks to excess, after notice, to what damages is he liable ?**

**From twenty-one to five hundred dollars to the person giving the notice.**

**If an intoxicated person does injury, who is liable for the damages.**

**Whoever sold him any part of the liquor.**

**How can liquors unlawfully kept be found and seized ?**

**On a search-warrant issued on the complaint of two persons.**

What is done with such liquor ?

It is forfeited after due proceedings and turned over to the commissioner.

Can the owner appear and claim the liquor as lawfully kept ?

Yes. The issue is then tried whether it was lawfully kept.

What are declared common nuisances ?

Liquors unlawfully kept for sale, and the implements used in selling.

Can the price of liquor sold, with cause to believe it was to be used unlawfully, be recovered ?

No, and all security given for the price is void.

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## CHAPTER LXXXVII.

### OF COMMON NUISANCES.

What power have the selectmen ?

To declare any burnt, dilapidated, or dangerous building a nuisance.

Can the owner appeal from their decision ?

He can, and have the question tried by jury.

What are declared nuisances ?

All places resorted to for prostitution, gambling, or liquor selling, and a heavy penalty is imposed on the keeper.

If a tenant uses a building for such purposes, what is the effect ?

It makes his lease void.

If a landlord lets his building, knowing it is to be so used, or does not eject the tenant when he learns of such use, what is the punishment ?

He is an accomplice, and punished by fine or imprisonment.



**CHAPTER LXXXVIII.**

**OF LICENSES AND MUNICIPAL REGULATIONS OF POLICE.**

What trades, occupations, persons, and things, require a license?

Innholders and common victuallers, intelligence offices, dealers in junk, old metals, and second-hand articles, pawnbrokers, livery-stables in maritime towns, steam-engines, furnaces, and boilers in certain cases, gunpowder and explosives, dogs, billiard tables, and theatrical exhibitions and public shows.

What are the duties and liabilities of innholders and victuallers?

They must furnish provision and lodging for travellers, put up signs, must not give credit to students, and are liable for the personal baggage of their guests.

What are steam-engines or boilers unlicensed deemed to be?  
Nuisances.

What must be put in every boiler?  
A fusible safety plug.

Who may regulate the keeping and sale of camphene and explosive fluids?

The council of a city, or inhabitants of a town.

What is the penalty, if a dog is not licensed?  
He may be killed and his owner fined.

If a dog kills sheep or other animals, what is the remedy?

The owner may elect to take pay from the dog tax, or he may have the dog killed.

When, also, may the dog be killed?

Any person may kill a dog that attacks him, or is found doing damage.

If a dog injures a person, what must the owner pay?  
Double damages.

What are keepers of billiard tables and bowling alleys forbidden to do ?

To allow any minor to play without his parent's written consent.

What are prohibited ?

Masked balls to which admission is charged, and exhibitions of fighting birds or animals.

**OF CONTAGIOUS DISEASES AMONG CATTLE.**

When contagious diseases exist among cattle, what may be done with those sick or suspected ?

The herds may be isolated by the selectmen, and those sick killed, their owners being paid for them.

What other powers have the selectmen ?

To regulate the passage of cattle through their towns, and to brand infected cattle, which then cannot be sold without their consent.

What must the owners of sick cattle do ?

Give notice to the selectmen.

What power have they to take land ?

They may take land and barns for not over a year for the purpose of isolating the cattle.

Who else have authority on the subject ?

Three commissioners, who have power to make regulations which shall supersede those of the selectmen, and to establish a hospital for the sick cattle.

How do they receive notice of the existence of the disease ?

The selectmen are required to send them notice.

**PART II.**

**PROPERTY, DOMESTIC RELATIONS, PRIVATE  
RIGHTS.**

**TITLE I.**

**OF REAL PROPERTY AND ITS ALIENATION.**

**CHAPTER LXXXIX.**

**OF ALIENATION BY DEED.**

How can an interest in land be conveyed.

By a deed, signed, sealed, acknowledged, delivered,  
and recorded.

What is the need of acknowledgment?

It cannot be recorded without.

What is the need of recording?

No conveyance, except a lease for less than seven  
years, is valid without record, except against the grantor  
and his heirs, and those to whom he may devise it, and  
those having actual notice of it.

What is the duty of the person conveying?

To notify the buyer of all incumbrances.

Before whom is the acknowledgment taken?

Before a justice of the peace, notary public, or com-  
missioner.

How may a mortgage be discharged?

By an entry on the margin of the record or by deed.

## CHAPTER XC.

### OF ESTATE IN DOWER, BY CURTESY, FOR YEARS, AND AT WILL.

To what dower is a widow entitled ?

One third, for life, of all her husband's lands, except wild lands.

By what tribunal is it set off to her ?

The probate court.

If her husband leaves no children, what does she take ?

One half his land for life.

What is the husband's estate by the curtesy ?

A life estate in the lands of his wife, if they have children born alive who could inherit it.

How is land, let for one hundred years or over, considered ?

As real estate, so long as fifty years remain unexpired.

How can a written lease, or lease at will, be terminated on neglect or refusal to pay rent ?

By a written notice of fourteen days.

How can a lease at will be terminated, when there is no breach of its conditions ?

By a three months' written notice, or a shorter time, if the rent is payable oftener.

How can a right of way or other easement be acquired ?

By twenty years' uninterrupted use under a claim of right.

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## TITLE II.

### CHAPTER XCI.

#### OF TITLE BY DESCENT.

How does real estate not given by will descend ?

1. In equal shares to the children. If a child is dead

his share is divided among his children. If there are no children, to the lineal descendants.

2. If the owner has no issue, to his father.

3. If no father, to his mother, brothers, and sisters in equal shares.

4. If no brothers or sisters living, to his mother.

5. If no mother, to his next of kin.

6. If several children inherit, and one dies a minor and unmarried, to his brothers and sisters by the parent from whom he inherits.

7. If there are no kin, to the husband or wife.

8. If no husband or wife, to the State.

How does property descend in case of an illegitimate child ?

As above stated, only the mother and her relatives alone are reckoned.

If the parents of an illegitimate child marry, what is the effect ?

The child is considered legitimate.

What is an advancement ?

Property given to a child in anticipation of its share by inheritance. It is so considered in making division.

When is a gift deemed an advancement ?

When it is so expressed in the gift, or stated in writing by the giver or receiver.

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### TITLE III.

#### CHAPTER XCII.

##### OF WILLS.

What is necessary to a valid will ?

It must be in writing, signed by the testator or by his

express direction in his presence, and attested and subscribed by three witnesses in his presence.

Who can make a verbal will ?

A soldier or sailor ; of personal estate only.

Is a devise to a witness of the will valid ?

No.

Do lands acquired after it is made, pass ?

If the will shows an intention that they should.

How is a will revoked ?

By tearing, burning, cancelling, or obliterating it with intention to revoke it, or by making a new will.

Where may wills be deposited for safe keeping ?

In the registry of probate.

Where is a will proved ?

In the probate court.

How is it proved ?

By the testimony of one witness, if no objection is made, otherwise by that of the three.

How can a will already proved in another state be established here ?

By a decree of the probate court, after notice and hearing.

What right has the widow of a person making a will ?

To waive its provisions within six months after it is proved, and take the share given her by law.

Can a child, or the issue of a deceased child, or a child born after its father's death, claim a share when they are not mentioned in the will ?

They can, unless they are already provided for, or the omission is intentional.

How is such share made up ?

The others taking under the will must contribute.

Does anything pass by a will before it is proved ?

No.

**TITLE IV.**

**CHAPTER XCIII.**

**OF THE PROBATE OF WILLS.**

What must the executor of a will, or an administrator of an intestate, or a trustee under a will, first do?

Give bonds to the probate court to faithfully discharge the trust.

If the executor is also residuary legatee, what bond may he give?

To pay all debts and legacies.

When is he exempt from giving bond?

When the testator so orders, or all interested agree to it.

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**CHAPTER XCIV.**

**OF ADMINISTRATION AND DISTRIBUTION.**

To whom is administration granted?

1. To the widow or next of kin, or both.
2. If they are unfit, or do not take it for thirty days, to one of the principal creditors.
3. To any fit person.
4. If the deceased was a married woman, to her husband.
5. To the public administrator.

When may a special administrator be appointed?

When by reason of a suit, or otherwise, there is delay in the regular appointment.

What may be done while he is in charge?

The court may order an allowance to the widow and children, and the payment of the expenses of the last sickness and funeral.

Who becomes an executor in his own wrong ?

Any one who injuriously intermeddles with goods of a person deceased.

What are his liabilities ?

He must account for the goods and pay damages.

How is property not disposed of by will distributed and applied ?

1. To the allowance to the widow and minor children.
2. To debts and expenses of administration.
3. The residue goes as if it was real estate, except —
4. If the person leaves a husband, he takes all.
5. If the person leaves a widow and issue, the widow takes a third.
6. And if no issue, all up to five thousand dollars and one half the rest.

How may irregular acts of administrators be made good ?

They may be ratified by the judge of probate.

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## CHAPTER XCVI.

### OF INVENTORIES, ALLOWANCES, AND COLLECTIONS.

By whom is the inventory to be returned ?

The administrator, within three months.

Who appraise it ?

Three persons appointed by the probate court.

To what are the widow and minor children entitled ?

Their ornaments and wearing apparel.

What may they be allowed ?

A reasonable amount as necessaries and provisions, and other articles for the support of the family forty days, to the widow, and if there is no widow, to the minor children, but not over fifty dollars to each child.



**104 GENERAL STATUTES OF MASSACHUSETTS.**

**What is first to be used to pay debts ?**

**The personal estate.**

**If that is not sufficient, can the real estate be sold ?**

**It can by order of the probate court.**

**What is considered as personal estate ?**

**Mortgages and land taken on execution by the administrator.**

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**CHAPTER XCVII.**

**OF THE PAYMENT OF DEBTS AND LEGACIES.**

**What notice must the administrator give ?**

**Public notice of his appointment within three months.**

**How long can he be sued by creditors of the deceased ?**

**For two years after he has given bond, if he has given notice.**

**If a debt is not due within two years, how is it preserved ?**

**The probate court may order money to be kept to pay it.**

**What other exception is there ?**

**If new assets come into the administrator's hands after the time expires, he is liable for those.**

**How soon can a suit be begun ?**

**Not till after one year.**

**How soon must the administrator render his account ?**

**Within one year.**

**If an estate is insolvent, in what order are the debts to be paid ?**

**1. Expenses of the funeral, last sickness, and administration.**

**2. Debts entitled to a preference under the laws of the United States.**

**3. Public rates, taxes, and excise dues.**

**4. Other debts.**

**How is such estate administered ?**

**It is represented insolvent, and two or more commissioners are appointed, who examine all claims and decide upon them, or the judge performs these duties himself.**

**Is their decision final ?**

**There is a right of appeal to the courts, and a trial by jury.**

**Are claims not proved before the commissioners barred ?**

**They are, unless new assets come into the administrator's hands.**

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## **CHAPTER C.**

### **OF TRUSTS.**

**Can a trustee be removed ?**

**He can, by the probate court or the supreme court.**

**When there is a vacancy, who can appoint ?**

**The probate court or the supreme court.**

**Who can control the management, investing, and disposing of the funds ?**

**The same courts.**

**How must a trust concerning lands be created or declared ?**

**By an instrument in writing.**

**Does a trust prevent a creditor or purchaser who had no notice of it, from taking the land ?**

**It does not.**

**Can an executor or administrator be removed ?**

**Yes ; for good cause.**

**What may administrators be authorized to do ?**

**To compromise or refer claims against them, or between legatees, and to release interests in real or personal estate. Disputes about the authenticity of wills may also be referred.**

## **106 GENERAL STATUTES OF MASSACHUSETTS.**

If the sureties on a probate bond are insufficient, or are discharged, what is done?

A new bond is required.

Who can bring suit on the bond?

Creditors who have not been paid, or next of kin, for their distributive share after the amount has been fixed by decree, or any one else interested who is authorized by the probate court.

For what is the estate in the hands of heirs or devisees liable?

For debts which could not be sued for against the administrator, and for which no other provision is made.

If a citizen of another state dies, leaving property here, what is done?

It is administered here.

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## **TITLE V.**

### **OF TITLE TO REAL ESTATE BY SPECIAL PROVISIONS.**

#### **CHAPTER CII.**

##### **OF SALES BY ADMINISTRATORS OR GUARDIANS.**

When can an administrator or guardian have a license to sell real estate?

When there is not personal property enough to pay the debts.

What courts can grant the license?

The supreme, superior, and probate courts.

When may the whole be sold?

When a sale of part would injure the property. In such case a bond must be given.

How can such sale be prevented?

By any person interested who will give a bond to pay the debts.

How shall the sale be made ?

By auction, after notice.

When else may a guardian sell ?

For the purpose of investing in productive stock, but he must give bond.

Can guardians sell at private sale ?

They can by leave of the court.

Can administrators and guardians mortgage real estate in their hands ?

They can by leave of the probate court.

What are the requisites of a valid sale at auction as against an heir or ward ?

1. A license by a competent court.
2. That a bond was given where a bond is required.
3. That notice was given as required by the license.
4. That the sale was at public auction, and the premises are held by a purchaser in good faith.

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## CHAPTER CIII.

### OF TAKING LAND ON EXECUTION.

What lands may be taken on execution for debt ?

Every interest in land (except the homestead), and land fraudulently put out of the debtor's hands.

What is the course of proceeding ?

Three men, — one for the debtor, and one for the creditor, — appraise the land, and enough is set off to pay the debt. The execution, with the officer's statement of his doings, must be recorded within three months.

What right has the debtor to redeem ?

He may redeem within one year.

**108 GENERAL STATUTES OF MASSACHUSETTS.**

When lands are subject to a mortgage, how is the appraisal made ?

The amount of the mortgage is allowed.

When may the land be sold on execution ?

When it is subject to a mortgage, or when it has been fraudulently conveyed by the debtor, and stands in the name of another.

How is it sold ?

By public auction.

Who gives the deed ?

The officer.

Can it be redeemed after sale ?

It can within one year.

When the land levied on stands in the name of another than the debtor, what more must be done ?

A suit must be brought to test the title within one year.

When land is taken on execution in favor of the State, how is it done ?

By sale.

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**CHAPTER CIV.**

**OF HOMESTEADS.**

Who is entitled to a homestead, and of what value ?

Every householder with a family is entitled to a homestead, exempt from being taken for debt, of the value of eight hundred dollars, in land owned and occupied by him.

How is it acquired ?

By a statement in the deed by which the property is acquired, or by a writing signed, sealed, acknowledged and recorded.

How is it lost ?

By acquiring a new one.

To what debts is the homestead still liable ?

For the purchase money, and debts contracted before the deed or writing is recorded.

How may it be released or conveyed ?

By a deed in which the wife joins for that purpose.

How long does the homestead continue ?

Till the death or marriage of the widow, and till the children all come of age, provided some of them occupy the premises.

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## CHAPTER CV.

### OF THE PREVENTION OF FRAUDS AND PERJURIES.

When shall no action be brought, unless the contract or a memorandum of it is in writing, signed by the party to be charged ?

1. To charge an administrator on a promise to answer damages out of his own estate.

2. To charge a person on a promise to answer for the debt, default, or misdoing of another.

3. On an agreement in consideration of marriage.

4. Or for the sale of lands.

5. Or not to be performed within one year.

What other promises must be in writing ?

A new promise to pay a debt discharged in insolvency, or barred by the statute of limitations.

Is a representation about the character or credit of another actionable ?

Only if it is made in writing.

What is necessary to the validity of a sale of goods over fifty dollars in value ?

Either delivery of part, or something in earnest to

bind the bargain, or in part payment, or a memorandum signed by the party chargeable.

When is a contract for the sale of stocks or bonds void ?

When the seller does not then own them.

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## TITLE VII.

### OF THE DOMESTIC RELATIONS.

#### CHAPTER CVI.

##### OF MARRIAGE.

What marriages are forbidden ?

Those with relatives nearer than consins, or while either party has another husband or wife living.

If the parties go out of the State to avoid our laws, is the marriage valid ?

No.

What must be obtained before marriage ?

A certificate from the town clerk.

To whom is he forbidden to grant it ?

To men under age, and women under eighteen, without their parents' consent.

If residents here are married out of the State and return to live here, must they have a certificate ?

Yes, on their return.

Is the solemnization of marriage, where one party is a minor, forbidden ?

Yes, unless the parents consent.

Who can solemnize marriages ?

Ministers and justices of the peace.

For what are penalties imposed on them ?

For violation of the provisions of this chapter, and not making returns.

If the person who solemnized the marriage was not authorized, is the marriage void ?

Not if either party believed that it was a lawful marriage.

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## CHAPTER CVII

### OF DIVORCE.

What marriages are absolutely void ?

When the parties are within the forbidden degrees of relationship, either party has a former husband or wife living, or is insane or idiotic.

If the validity of the marriage is doubted for fraud, or other cause, how can the matter be determined ?

By a libel to annul it.

For what causes may a divorce be decreed ?

Adultery ; impotency ; uniting with a sect which holds marriage unlawful, and remaining with them three years ; sentence to hard labor for five years or more ; desertion for five years ; extreme cruelty ; utter desertion ; confirmed habits of drunkenness ; cruel and abusive treatment ; wanton refusal to provide maintenance by the husband.

Where are libels for divorce tried ?

In the supreme court, with a jury, if asked for.

During the suit, how is the wife provided for ?

The court may order her an allowance, or alimony.

Can a woman divorced resume a former name ?

By consent of the court.

Can the guilty party marry again ?

No, except by express leave of the supreme court.

Who has the children ?

The court decides who shall have them, regarding their best interests.



**112 GENERAL STATUTES OF MASSACHUSETTS.**

When does the divorced wife retain her right of dower ?

When the divorce is for the husband's adultery, or imprisonment.

What property does the wife take when a divorce is decreed her ?

All her real estate, such of the personal estate which she brought her husband as the court may allow, and such further amount as alimony as the court order.

**OF LEGAL SEPARATION.**

When the husband deserts the wife, or fails to support her, what order may the court make ?

It may prohibit him from imposing any restraint on her, and decree her support and give her the custody of the children.

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**CHAPTER CVIII.**

**OF RIGHTS AND LIABILITIES OF HUSBAND AND WIFE.**

What does a married woman hold to her own use ?

All property conveyed to her, earned by her labor on her separate account, and all possessed by her before marriage, with the income.

What power has she to make contracts and conveyances ?

The same as if unmarried.

What is the presumption about her labor ?

That it is on her separate account.

Is her husband liable for her debts ?

No.

What provision is made for a guardian ?

She may have a guardian appointed to manage and hold her property.

**CHAPTER CIX.**

**OF GUARDIANS AND WARDS.**

**What court appoints guardians ?**

**The probate court.**

**When can a minor nominate his guardian ?**

**When he is over fourteen years old.**

**What are his powers and duty ?**

**The custody and tuition of the child, if it has no parents, and the care of all his estate.**

**Who else may appoint a guardian ?**

**A father may by will.**

**When is a guardian appointed for an insane person or spendthrift ?**

**After due notice and proceedings in the probate court.**

**What must the guardian do ?**

**Give bond to the probate court, and return an inventory and appraisal of his ward's property, and file an account within one year, and once in three years afterwards.**

**When the child's father is living, who supports him ?**

**The father, unless the court thinks it reasonable that part of the ward's estate should be used for that purpose.**

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**CHAPTER CX.**

**OF ADOPTION OF CHILDREN AND CHANGE OF NAMES.**

**How may children be adopted ?**

**By an order of the probate court after notice and hearing.**

114 *GENERAL STATUTES OF MASSACHUSETTS.*

What is required ?

In general the written assent of the parents, and of the child, if over fourteen.

What is the effect of the adoption ?

The child is for all purposes the child of the new parents, and only retains the right to inherit property from its old ones.

How can a person's name be lawfully changed ?

By the probate court.

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CHAPTER CXI.

OF MASTERS, APPRENTICES, AND SERVANTS.

For what time may children be bound as apprentices ?

To the age of fourteen ; if above that age, to twenty-one for boys, and to eighteen or marriage for girls.

By whom are they bound, if under fourteen ?

By their parents ; if they have none, they bind themselves with the selectmen's approval.

If over fourteen ?

In the same way ; but they must sign the indentures.

If paupers ?

By the overseers of the poor.

What is done if there is misconduct on either side ?

The superior court can inquire into it, and discharge the master or the servant from their obligations.

What bonds are required ?

A bond on each side for the faithful discharge of the provisions of the indentures.

**PART THIRD.**

**OF COURTS AND PROCEEDINGS IN CIVIL CASES.**

**TITLE I.**

**OF COURTS.**

**CHAPTER CXII.**

**OF THE SUPREME JUDICIAL COURT.**

How many justices are there of the supreme court ?

Seven.

What does it superintend ?

All courts of inferior jurisdiction, and issues writs necessary for the furtherance of justice.

What officers may they remove ?

Clerks of the various courts, commissioners of insolvency, sheriffs, registers of probate, and district attorneys.

What matters are tried by the full court ?

Indictments for capital crimes and questions of law.

Of what have they exclusive jurisdiction ?

Of petitions for divorce and nullity of marriage.

Of what concurrent jurisdiction ?

Partition and the foreclosure of mortgages, and writs where the damages claimed exceed four thousand dollars in Suffolk county, and one thousand elsewhere.

When they decide questions of law, what must the records show ?

A brief statement of the grounds of decision.

## CHAPTER CXIII.

### OF ITS EQUITY JURISDICTION.

What jurisdiction has the supreme court in equity?

Of every original process in equity where no other provision is made.

What in particular?

Of the redemption or foreclosure of mortgages, trusts, specific performance of contracts, restitution of goods taken and concealed, contribution between persons liable for a debt, cases where there are distinct rights which cannot be settled in one suit at law, partners and tenants in common, joint trustees and administrators, waste and nuisance, accounts which cannot be adjusted at law, reaching property that cannot be attached, fraud, conveyances in the nature of mortgage, accident and mistake, discovery, and full equity powers where there is not a complete remedy at law.

How are cases first heard?

By one justice.

How are they brought before the full court?

The justice may reserve them, or the parties may appeal.

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## CHAPTER CXIV.

### OF THE SUPERIOR COURT.

How many justices are there of the superior court?

Ten.

Of what has it jurisdiction?

Of all civil or criminal actions of which no other court has exclusive jurisdiction.

**What actions cannot be commenced here ?**

**Those where the damages claimed are less than twenty dollars.**

**For what does an appeal lie to the supreme court ?**

**For matters of law apparent on the record.**

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## **CHAPTER CXV.**

### **OF MATTERS COMMON TO THE SUPREME AND SUPERIOR COURTS.**

**Who establish rules for conducting the business ?**

**The justices of each court.**

**What is the law about the charge to the jury ?**

**It must not be with respect to matters of fact, but may state the law and the evidence.**

**Can the court set aside the verdict ?**

**They can at any time before judgment.**

**When is their decision final ?**

**On objections to matters of form.**

**In other cases what remedy has a party aggrieved ?**

**He may carry the matter to the supreme court.**

**What powers have the courts as to their sessions ?**

**They may hold two at once in one county or adjourn from one shiretown to another.**

**What other power have they ?**

**To establish a seal and appoint all necessary officers.**

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## **CHAPTER CXVI.**

### **OF POLICE COURTS.**

**What are the officers of a police court ?**

**One justice, two special justices, and a clerk.**

What is their jurisdiction ?

The same as that of justices of the peace. They also have in some criminal cases concurrent jurisdiction with the superior court.

To what court does an appeal lie from their decisions ?

To the superior court.

What courts are included under the name of police courts ?

Police, municipal, and district courts.

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## CHAPTER CXVII.

### OF PROBATE COURTS.

What are the officers of the probate court ?

A judge and register in each county.

What is its jurisdiction ?

Of the probate of wills, the appointing of administrators and guardians, the adoption of children and change of names ; partition, and concurrent jurisdiction with the supreme court to enforce specific performance of written contracts of persons deceased.

What court has appellate jurisdiction in all probate matters ?

The supreme court.

What must the party appealing file and serve on the other party ?

His reasons of appeal.

If any question of fact arises in the supreme court, how may it be tried ?

By jury.

Who has power to establish rules of practice ?

The judges, subject to the revision of the supreme court.

What may they issue ?

All necessary warrants and processes.

What may be done when court is not in session ?

All matters not requiring notice.

What are furnished by the county ?

All probate blanks.

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## CHAPTER CXVIII.

### OF COURTS OF INSOLVENCY.

Who are the officers of the court of insolvency ?

The officers of the probate court.

Are the provisions of the statutes concerning insolvency now in force ?

They are suspended, while the United States bankruptcy law is in force.

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## CHAPTER CXIX.

### OF JUDGES AND REGISTERS OF PROBATE.

What oath must the judge and register take and subscribe ?

To faithfully discharge their duties, and that they will not be interested in any matter before them, which oath is filed in the probate office.

Can the judges interchange services ?

They can.

If the judge does not or cannot act, who performs his duties ?

Any other judge designated by the register.

If the register is absent, by whom is a temporary register appointed ?

By the judge.



**CHAPTER CXX.**

**OF JUSTICES OF THE PEACE.**

Of what have justices of the peace exclusive original jurisdiction ?

Of replevin for beasts distrained or impounded ; actions for damages done by them ; for forcible entry and detainer, and actions wherein the damages claimed are under twenty dollars.

What concurrent jurisdiction have they with the superior court ?

Of actions where the damages claimed are between twenty and one hundred dollars.

Can their writs be served out of their county ?

Only to attach property.

If the defendant does not appear are the charges against him to be taken as true ?

They are.

If it appears that the title of real estate is in question, what becomes of the action ?

On the request of either party, it is removed to the superior court.

Must the defendant deny the plaintiff's charges in writing ?

No ; he may deny them orally at the trial.

Can a trial by jury be had before a justice of the peace ?

It can ; the jury consisting of six.

When is there an appeal from the decision of a justice ?

In all cases where there was no trial by jury.

What criminal powers have they ?

To issue warrants.

Who try criminal cases ?

Trial justices.

What is the jurisdiction of trial justices ?

Of all offences where the fine or forfeiture does not

exceed fifty dollars, or imprisonment not exceeding six months, or both.

When the offence is beyond their jurisdiction what must they do ?

Bind the offender over to the superior court for trial.

Of what have they concurrent jurisdiction with the superior court ?

Of stealing where the property is under fifteen dollars, of other larceny where it is under five dollars, of receiving such stolen goods, of obtaining property by false pretences, or gaming, of taking horses, boats, etc., without intent to steal, and of injuries to trees, gardens, and orchards.

Does an appeal lie from their conviction ?

It does in all cases except militia fines.

What other powers have justices of the peace ?

To frame necessary writs, issue summons for witnesses, administer oaths, and punish for contempt in judicial proceedings before themselves.

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## CHAPTER CXXI.

### OF CLERKS, ATTORNEYS, AND OTHER OFFICERS OF COURTS.

By whom is the clerk of the supreme court for the Commonwealth appointed ?

By the court.

What are the duties of the clerk ?

To keep the records of the court, its papers, and issue all orders and writs.

If the clerk is absent at any term how is the vacancy filled ?

By the judges.

122 *GENERAL STATUTES OF MASSACHUSETTS.*

Who inspects their records?

The supreme court.

Who can be admitted to practise as an attorney at law?

Any inhabitant, of age, of good moral character who has studied three years, or on examination, if he has not studied three years, or if he has been admitted in another state.

For what may they be removed?

Any malpractice or deceit.

Who else can manage suits?

Any party or person specially authorized.

What lien do attorneys have?

On the execution, for their fees and disbursements.

What interest must they pay, if they do not on demand pay over money collected?

Five times the lawful interest.

By whom are masters in chancery appointed and removable?

The governor and council.

What is their term of office?

Five years.

For what purpose are auditors appointed?

To state the accounts of the parties and report thereon.

Is their report evidence?

It is *prima facie* evidence of matters properly embraced in it.

What is their compensation?

A reasonable amount to be allowed by the court.

For what term does the reporter of the decision of the supreme court hold his office?

During the pleasure of the governor and council.

What are his duties?

To report all decisions on questions of law.

**CHAPTER CXXII.**

**SPECIAL PROVISIONS.**

**What are attorneys forbidden to do ?**

**Buy or become interested in claims for collection.**

**What courts have jurisdiction of applications for naturalization ?**

**The supreme and superior courts.**

**How must the proceedings be conducted ?**

**In open court.**

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**TITLE II.**

**OF ACTIONS.**

**CHAPTER CXXIII.**

**OF THE COMMENCEMENT OF ACTIONS AND SERVICE OF  
PROCESS.**

**Where must actions be brought ?**

**In the county where one of the parties lives, but in  
actions for real estate in the county where it lies.**

**How are civil actions commenced ?**

**By original writ.**

**How may it be framed ?**

**Either to attach goods and for want thereof to arrest  
the body, or it may be a summons with or without an  
order to attach goods.**

**When must a separate summons be served ?**

**When property is attached.**

**If the defendant's name is unknown, how is the writ made ?**

**With a fictitious party as defendant, and amended.**

**When are writs returnable ?**

**At the next term of court, or, if there are more than  
one within sixty days, at either.**

**124 GENERAL STATUTES OF MASSACHUSETTS.**

**When must writs be indorsed?**

**When the plaintiff lives out of the State.**

**How is a summons served?**

**By reading it to the defendant or giving him a copy, or it may be left at his last and usual place of abode.**

**What may be attached?**

**Any goods that may be taken on execution.**

**How long after judgment may they be held?**

**Thirty days.**

**When is the attachment dissolved by the defendant's death?**

**When administration is applied for within one year.**

**When an attachment of real estate is made, what must be done?**

**A copy of the writ and return must be left at the registry of deeds.**

**Where estate is attached standing in the name of one other than the defendant, what is to be done?**

**A special attachment must be made, setting out a description of the land, and the real and pretended owners' names.**

**Where property is too bulky to be removed, how is the attachment preserved?**

**By leaving a copy of the writ and return with the town clerk.**

**How are shares of corporations attached?**

**By leaving a copy of the writ and return with the person who has the books.**

**When can mortgaged or pledged goods be held by attachment?**

**When the plaintiff pays the debt.**

**If the property is perishable or expensive to keep, what is done?**

**Three persons are appointed to examine it, and if they decide that it is perishable, they appraise it and it's sold, unless the debtor releases it by giving bond.**

**GENERAL STATUTES OF MASSACHUSETTS. 125**

If a share in property owned by several is attached, how may the others get possession ?

By an appraisal and bond as above provided.

Who can ask the court to vacate a fraudulent attachment ?

Any person having a subsequent claim on the property.

How can an excessive attachment be reduced ?

By an order of the court, after notice.

How may an attachment be dissolved ?

The defendant may give a bond to pay the judgment which may be recovered, or one to pay the value of the property.

By whom must these bonds be approved ?

By the plaintiff, or by a master in chancery.

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**CHAPTER CXXIV.**

**OF ARREST, IMPRISONMENT, AND DISCHARGE.**

When can a person be arrested on mesne process in an action of contract ?

When the plaintiff has satisfied some justice, 1st. That he has a good cause of action. 2d. That he believes with reason that the defendant has property not exempt which he does not intend to apply to the claim ; and 3d. That the defendant intends to leave the State. Or, instead of 2d and 3d, that the defendant is an attorney, and the claim is for money collected and unreasonably kept.

What must the plaintiff prove to the justice in an action of tort ?

That he has a good cause of action for one third the damages claimed, and that he has reason to believe that the defendant will leave the State.

**126 GENERAL STATUTES OF MASSACHUSETTS.**

**In what actions cannot the defendant be arrested on mesne process?**

**Slander, or libel.**

**What must the creditor prove to the justice to authorize an arrest on execution?**

**That he reasonably believes:**

**1st. That the debtor has property not exempt, which he does not intend to apply on the claim; or,**

**2d. That since the debt was contracted, he has fraudulently disposed of his property for his own use.**

**3d. Or lost at gambling one hundred dollars.**

**4th. Or wilfully squandered his property; or,**

**5th. That he contracted the debt not intending to pay it; or,**

**6th. That he is an attorney, and does not pay over money collected.**

**Can a woman be arrested?**

**Only for tort, or after an examination before the court, where she refuses to apply her property to the debt according to their orders.**

**What is allowed the defendant when arrested?**

**Time to get bail in arrest on mesne process or to get sureties for his recognizance to take the poor debtor's oath.**

**What is first done in such case?**

**He is taken before a magistrate.**

**What is the condition of the recognizance?**

**That he will deliver himself up for examination.**

**If the charge is that he intended to leave the State and it is disproved, what is done?**

**He is discharged.**

**When is he allowed to take the poor debtor's oath?**

**When the magistrate is satisfied of the truth of the facts stated in it and the magistrate's certificate.**

**What are the substance of the oath and certificate ?**

**That he has no property of the value of twenty dollars, not exempt, and none disposed of or concealed for his own benefit.**

**If the debtor is imprisoned, who supports him ?**

**If he claims support as a pauper, the plaintiff.**

**If the charges of fraud on clauses two to six are made, what is done ?**

**The debtor is tried, and if convicted, sentenced to hard labor. He has a right of appeal to the superior court.**

**If a debtor imprisoned becomes insane, how is he discharged ?**

**By the judge of probate.**

**How may any person who recognizes as surety, as provided in this chapter, protect himself ?**

**He may surrender his principal.**

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## **CHAPTER CXXV.**

### **OF BAIL.**

**Who may give bail ?**

**Any person arrested on mesne process.**

**What is the condition of the bail-bond ?**

**That the debtor shall abide the judgment of the court.**

**Where may the bail surrender their principal ?**

**In court, or after judgment, to the officer who holds the execution.**

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## **CHAPTER CXXVI.**

### **OF ABSENT DEFENDANTS AND INSUFFICIENT SERVICE.**

**When can a person living out of the State be sued here ?**

**When an effectual attachment of his goods is made.**



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When the plaintiff is a non-resident, to what is he liable?

A cross action.

If the writ has not been served on the non-resident defendant, what notice is given him?

Such as the court shall order.

What restriction is there on taking out execution in such case?

It cannot be taken for a year, unless the plaintiff gives bond to restore what he gets, if the judgment is reversed.

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**CHAPTER CXXVII.**

**OF DEATH AND DISABILITIES OF PARTIES.**

What actions survive the death of the parties?

Replevin, tort to the person, for goods taken, damage to real and personal estate, against sheriffs, also those which survive at common law.

If a party dies, what is done?

His administrator comes in or is cited in by the court to prosecute or defend the suit.

In real actions or proceedings for partition, who may come in?

The heir or devisee of the land.

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**CHAPTER CXXVIII.**

**OF ACTIONS BY AND AGAINST ADMINISTRATORS.**

When is an administrator liable for costs personally?

When he is defeated in any action to which he is a party, but they may be allowed in his account.

CHAPTER CXXIX.

OF PLEADINGS AND PRACTICE.

What are the divisions of personal actions.

Three: contract, tort, and replevin.

How must the declaration be framed?

It must state the facts necessary to constitute the cause of action with substantial certainty and without unnecessary verbiage.

What must be set out?

Copies of all written instruments.

Who may be joined in one action?

All persons liable on one contract; as the signer and indorser of a note.

When must the declaration be inserted in the writ?

When an arrest is made.

What is the object of a demurrer?

To point out some defect of law.

How must it be drawn?

The defect must be specially pointed out.

What must the defendant next do?

He must file an answer.

What must the answer set out?

It must deny in clear and precise terms every fact stated in the declaration which the defendant disputes, or declare the defendant's ignorance, and he must give copies of all written instruments relied on.

Can a suit be abated for circumstantial errors?

No.

What amendments can be made in the proceedings?

Any amendment which justice requires.

What is the effect of a default suffered by the defendant?

The charge in the declaration may be taken as true.

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**When may a party file interrogatories to be answered by the other party ?**

**At any time before the case is opened to the jury.**

**When must they be answered, and how ?**

**Within ten days, in writing, under oath.**

**If a party refuses to answer, what penalty may the court inflict ?**

**A judgment against him.**

**If the defendant is liable to the plaintiff, what may he do ?**

**He may offer him judgment for the sum due.**

**If the plaintiff does not accept the offer, how are the costs regulated ?**

**Unless the plaintiff recovers more than was offered, the defendant recovers costs from the time of the offer.**

**When are parties entitled to a trial by jury ?**

**When they ask for it in writing, otherwise, the case is tried by the judge.**

**What forms are used in legal proceedings ?**

**Those given in this chapter.**

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**CHAPTER CXXX.**

**OF SET-OFF AND TENDER.**

**What can be set off against each other ?**

**Mutual debts or demands, founded on judgment or contract, which are liquidated or can be ascertained by calculation. They must be between all the plaintiffs and all the defendants.**

**When can a claim assigned to the defendant be set off ?**

**When it was assigned, and notice given to the plaintiff before the action was begun.**

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**In what form is the matter brought into court ?**

**By a declaration in set-off and proceedings like other suits.**

**To what time does the statute of limitations run against a claim in set-off ?**

**To the date of the plaintiff's writ.**

**When may tender be made ?**

**At any time more than four days before the return day of the writ.**

**How must the tender be made ?**

**The debt and costs must be tendered, and if not accepted, paid into court.**

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**CHAPTER CXXXI.**

**OF WITNESSES AND EVIDENCE.**

**Who can issue summons for witnesses to attend court ?**

**Any clerk of a court, or justice of the peace.**

**Who can serve them, and how ?**

**Any officer who can serve civil process, and any disinterested person ; by reading, or by leaving a copy, and by tendering one day's fees.**

**If the person summoned does not attend, to what is he liable ?**

**To pay damages, and to a fine ; and he may be arrested and brought to court.**

**How is the oath administered ?**

**With the ceremony of holding up the hand, or in the form the witness considers most obligatory.**

**If the witness has scruples about swearing, in what form is he put under obligation to tell the truth ?**

**He affirms under the penalties of perjury.**

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**Can parties testify ?**

**They can, except that neither husband nor wife shall testify to private conversations with each other.**

**When may the deposition of a witness be taken ?**

**When the witness lives over thirty miles from the place of trial, is about to leave the State, or is sick or infirm.**

**What notice must be given ?**

**A notice in writing, signed by a justice of the peace.**

**How is the taking conducted ?**

**The witness is first sworn, then examined, and his answers taken down by the justice, or a disinterested person, and signed.**

**What is done with it ?**

**The justice annexes his certificate of the manner of taking, and sends it to the court.**

**Before whom, and how are depositions taken out of the State ?**

**Before commissioners appointed by the court, or the governor, on written interrogatories.**

**Are they admissible if taken in any other way ?**

**The court have power to admit them.**

**How is a deposition taken to perpetuate testimony ?**

**Application is made to two justices, who notify all interested, and when satisfied that it is a proper case, take the deposition, which must at once be recorded in the registry of deeds.**

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**CHAPTER CXXXII.**

**OF JURIES.**

**Who are qualified to serve as jurors ?**

**All who can vote for representatives.**

Who are exempt ?

Certain officers of the government, and of courts, lawyers, ministers and doctors ; persons over sixty-five ; members of the militia, members of the fire department ; conductors and engineers on railroads ; teachers, and some others.

How often must they serve ?

Not oftener than once in three years.

What list do the selectmen prepare ?

Of such persons as are well qualified.

How are they summoned to court ?

The clerks issue a writ to the selectmen for such number as are necessary, and the names are publicly drawn by lot, and then summoned.

How are the juries arranged in court ?

Alphabetically ; the first twelve are the first jury ; the second, the second jury, and the rest supernumeraries.

What right of challenge have the parties ?

They may challenge two peremptorily, and more for cause.

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## CHAPTER CXXXIII.

### OF JUDGMENT AND EXECUTION.

When is judgment entered ?

As of the last day of the term, unless another day is fixed by express order.

How soon can an execution issue ?

Twenty-four hours after judgment.

When is it returnable to the court ?

In sixty days from its date.

When can executions be set off ?

When they are in the same right, between the same

parties and not assigned ; but they cannot be set off so as to deprive the attorney of his lien for fees, and disbursements.

How are executions levied ?

As the attorney directs.

What personal property of a debtor is exempt from seizure ?

Necessary clothes ; one bed, bedstead and bedding for every two persons of the family ; one stove and twenty dollars worth of fuel ; other necessary furniture not over three hundred dollars in value ; bibles, school books and library, not over fifty dollars in value ; one cow, six sheep, two swine, two tons of hay ; the tools of his trade, not over one hundred dollars in value ; materials and stock used in his trade, to the same amount ; provisions for his family to the value of fifty dollars ; one pew ; boats, tackle and nets of a fisherman to the value of one hundred dollars ; uniform, arms and accoutrements ; rights of burial and tombs ; one sewing-machine.

How are goods, taken on execution, disposed of ?

They must be kept four days, and then sold at auction within ten days more after due notice.

What is done with any surplus ?

It is returned to the debtor, unless the property was attached under some other writ.

How are shares in corporations levied on ?

They are sold like other personal property, and the officers are obliged to issue new certificates to the purchasers.

What execution must be recorded ?

One issued on a judgment in a writ of entry for the possession of real estate.

**TITLE III.**

**OF REMEDIES RELATING TO REAL PROPERTY.**

**CHAPTER CXXXIV.**

**OF THE WRIT OF ENTRY, AND PETITIONS FOR THE  
SETTLEMENT OF TITLE.**

How are estates of freehold recovered ?

By a writ of entry.

Against whom may it be brought ?

Against any one in possession who claims a freehold,  
or who has actually dispossessed the plaintiff.

How are the pleadings regulated ?

By the common law.

How can joint tenants or tenants in common sue ?

Either jointly or separately.

What can the plaintiff recover besides the land ?

Rents and profits and damages for waste.

When is the tenant to be allowed for improvements ?

When he has held the land six years or under a title  
which he had reason to believe good.

How is this allowance limited ?

It must never exceed the amount expended nor the  
increased value of the premises thereby.

How can the plaintiff obtain the value of his interest in the  
premises ?

He may have that value assessed, and if the defend-  
ant elects to pay it, he will hold the land.

If a person is in possession and another claims title, what rem-  
edy has the first ?

On his petition the court may order the other to es-  
tablish his right.



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**CHAPTER CXXXV.**

**OF THE WRIT OF DOWER.**

**When may a widow bring a writ of dower?**

**When dower has not been set off to her by the heir or the probate court.**

**What must she first do?**

**Make a demand in writing.**

**If she recovers dower, how is it set off to her?**

**By three commissioners appointed by the court.**

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**CHAPTER CXXXVI.**

**OF THE PARTITION OF LANDS.**

**By what courts can a partition be made?**

**By the probate, superior, or supreme.**

**In the superior and supreme courts what are the proceedings?**

**Either a writ of partition at common law or a petition for partition.**

**Who can maintain the petition?**

**Any person having an estate in possession.**

**How is the petition served?**

**A copy must be given to every person interested, and such farther notice given as the court may order.**

**What is the first question tried?**

**Whether the petitioner is entitled to partition.**

**If that is decided for the petitioner, how is partition made?**

**By three or five commissioners who are sworn and give notice to the parties.**

**If the shares cannot be made equal, or the property would be injured by division, how is justice reached?**

**One may be ordered to pay money to another, or al-**

ternate occupancy ordered, or the estate sold and the money divided.

In case of alternate occupancy, how does the one in possession hold ?

For most purposes as if he were a tenant under a lease.

What appeal is there ?

On matters of law, to the supreme court.

When may a party claim a new partition ?

When he had no notice, or when he has been evicted by one who has a superior title.

Of what estates can the probate court make partition ?

Of any where the shares are not disputed.

How is the partition made ?

Substantially as in the other courts.

In case money is awarded, when does the partition take effect ?

Only after it is paid or secured.

If a new partition is ordered what compensation is allowed ?

For improvements.

How are water-rights divided ?

As above provided, or by a bill in equity.

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## CHAPTER CXXXVII.

### OF FORCIBLE ENTRY AND DETAINER.

How may a person who holds possession of lands wrongfully, be expelled from the possession ?

A writ may issue from a justice or police court stating the facts, and if on trial he appears to be entitled to it, the plaintiff has judgment and execution for possession.

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If the defendant removes the action or appeals to the superior court, what bond must he give?

To pay all rent and all damages. If the appeal is on frivolous grounds, he must pay double rent.

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CHAPTER CXXXVIII.

OF WASTE AND TRESPASS.

Who has an action of waste?

Any person having a reversion or remainder.

What does he recover?

Damages and the place wasted.

If a joint-tenant or tenant, while an action is pending for the land, commits waste, what damages must he pay?

Treble damages.

What damages are given for a wilful trespass to trees?

Treble damages.

Who can issue a writ of injunction to prevent waste?

The supreme court.

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CHAPTER CXXXIX.

OF PRIVATE NUISANCES.

When a person prevails in a suit for a nuisance, what does the court order?

Its abatement.

What other remedy is there?

An injunction.

**CHAPTER CXL.**

**OF THE FORECLOSURE AND REDEMPTION OF MORTGAGES.**

**How may a mortgagee obtain possession ?**

**By action, or by peaceable entry.**

**How long must he hold it to complete the foreclosure ?**

**Three years.**

**When the entry is made without the action, what is necessary ?**

**A sworn statement of the fact by two witnesses, recorded.**

**In the action, what judgment is entered ?**

**That if the condition of the mortgage is performed in two months, the mortgage shall be void ; otherwise a writ of possession shall issue.**

**If the mortgagee is in possession at the time the condition is broken, when does the three years begin to run ?**

**When a notice is given to the mortgagor, which is to be proved by a certificate recorded.**

**How may a mortgage be redeemed ?**

**By performing the condition and paying all legal costs before incurred.**

**What is done when the mortgagee has had possession ?**

**An account of rents, profits, and expenses is taken.**

**If the tender of performance is refused, how soon must suit to redeem be brought ?**

**Within one year.**

**If suit to redeem is brought without a tender, what must the mortgagor do ?**

**He must therein offer performance.**

**Where must the suit be brought ?**

**In the superior or supreme courts.**

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If the mortgage has a power of sale, what may the mortgagee have instead of a writ of possession ?

An order of sale. If he sells, he must return his doings to the court within ten days.

If he sells without an order of court, what must he do ?

He must record a sworn statement of the sale in the registry of deeds, within thirty days.

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CHAPTER CXLI.

OF INFORMATION FOR INTRUSION AND RECOVERY OF  
LANDS BY THE STATE.

How may the State proceed against trespassers and intruders ?

By an information filed in the supreme court.

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TITLE IV.

OF PROCEEDINGS IN CERTAIN SPECIAL CASES.

CHAPTER CXLII.

OF TRUSTEE PROCESS.

What actions may be commenced by trustee process ?

All personal actions except replevin, actions for malicious prosecution, slander or libel, and assault and battery.

Where must it be returnable ?

In a county where one of the trustees dwells.

When may new trustees be inserted ?

At any time before service on the defendant.

**What is the trustee's duty ?**

**To file an answer disclosing whether he has any money or goods of the defendant in his hands.**

**How can he be farther examined ?**

**By written interrogatories filed in court.**

**If the money or goods are claimed by a third person, how is his right determined ?**

**By making him a party to the proceedings.**

**If during a suit the defendant is summoned as trustee of the plaintiff, does the suit proceed ?**

**Only to ascertain the amount due.**

**For what is a trustee chargeable ?**

**For goods, effects, or credits of the defendant ; money, though not yet due, or property conveyed by him fraudulently as against creditors.**

**Is a trustee chargeable, if he paid over the money before he had notice ?**

**No.**

**What is exempt from trustee process ?**

**Wages to the amount of twenty dollars, except when the suit is for necessities. The earnings of the debtor's wife and minor children.**

**For what is a trustee not chargeable ?**

**A note not due, money held by him as a sheriff or public officer, money due on a contingency, or a judgment on which an execution may issue.**

**If a judgment is rendered against a trustee charging him, is he still liable to the defendant ?**

**No.**

**If a trustee does not pay over the money to the officer, to what is he liable ?**

**To a writ of scire facias, on which the matter is again tried, and if charged, an absolute execution issued.**

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**If the trustee has specific goods, what is done ?**

**When he is charged, he must deliver them to the officer to dispose of on his execution, but any claim he has on them must first be satisfied.**

**How are the costs arranged ?**

**The trustee, if he is charged, retains them. If he is discharged, the plaintiff must pay them to him.**

**When must the trustee pay costs ?**

**When he was guilty of any neglect or fault.**

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## **CHAPTER CXLIII.**

### **OF REPLEVIN OF PROPERTY.**

**When does a writ of replevin lie ?**

**When beasts are distrained or impounded, or when goods of the value of twenty dollars are attached, taken, or detained from the owner unlawfully.**

**Where is the suit brought ?**

**In the county where the goods are detained.**

**What bond must the plaintiff give ?**

**A bond with a penalty of double the appraised value of the goods conditioned to prosecute the replevin, and return the goods and pay damages and costs, if unsuccessful.**

**If it is decided that the defendant is entitled to the goods, what is the judgment ?**

**For their return with damages and costs.**

**If the plaintiff succeeds, what is the judgment ?**

**For damages and costs.**

CHAPTER CXLIV.

OF HABEAS CORPUS, PERSONAL REPLEVIN, AND PERSONAL LIBERTY.

Who is entitled as of right to a writ of *habeas corpus* ?

Every person imprisoned or restrained of his liberty, except as follows : persons committed for treason or felony, or as accessories, when the offence is properly set out in the warrant ; persons convicted, or in execution on legal process ; persons committed on mesne process, unless excessive bail is asked.

By whom is the writ issued ?

By any judge, and if no judge is known to be within five miles, by a justice of the peace.

How is application for it made ?

By a sworn complaint, setting forth the person detained, where, by whom ; the cause, if known ; and, if on a warrant, a copy, if obtainable.

When, and before whom is the writ returnable ?

Forthwith, before a justice of the supreme court.

What must the person holding the prisoner state in writing, under oath, to the court ?

Whether he has the party ; the authority by which he holds him ; and, if he has transferred him to another, at what time, for what cause, and by what authority he did it.

What else must he do ?

Produce the person restrained, if possible.

How is the case heard ?

At once, in a summary way.

When can a trial by jury be had ?

When the person is claimed as a fugitive from labor or service in another state.



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What are the rules of evidence in such case ?

No person interested can testify, and all presumptions are in favor of freedom.

What notice must be given in general ?

To all persons interested, and to the attorney general in criminal cases.

If the detention is legal, what order is issued ?

To remand the prisoner to custody.

If it is illegal, what order is issued ?

To discharge the prisoner; or, if he is held till he gives excessive bail, to reduce the amount.

What general power have justices of the supreme and superior courts ?

To issue a writ of *habeas corpus* to bring before them any person detained, and to bail or discharge him, except only persons committed by the governor, senate, or house of representatives.

If a person refuses to serve the writ or obey it when served, how is he punished ?

For contempt ; and by a penalty of four hundred dollars.

For what purposes is a writ of personal replevin issued ?

The same as *habeas corpus*.

What court issues it ?

The superior court.

What must the person detained do ?

Give bond to prosecute the replevin, and appear ready to be remanded if the court order.

If the defendant does not produce the plaintiff, how is he compelled to do so ?

He is arrested and kept in close custody.

Who may sue out the writ of personal replevin ?

Any person who gives security for costs.

CHAPTER CXLV.

OF CERTIORARI, MANDAMUS, AND QUO WARRANTO.

By whom, and for what cause, are writs of *certiorari* issued ?

By the supreme court, to correct errors in proceedings not according to the course of the common law.

What is the object of the writ of *mandamus* ?

To compel some officer to perform his duty.

What are the proceedings ?

The person to whom it is directed must make a written return which the other party may deny. The matter is then tried.

What is the object of a writ of *quo warranto* ?

To inquire if a private corporation is exceeding, or abusing its power.

How are the proceedings conducted ?

Any person injured may get leave from the supreme court to file an information, and the question is then tried.

What is the judgment ?

That the corporation be perpetually excluded from the franchise, or privilege claimed, and if the attorney-general appears and asks it, a judgment of fine and forfeiture.

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CHAPTER CXLVI.

OF WRITS OF ERROR AND REVIEW.

For what does a writ of error issue from the supreme court ?

To reëxamine questions of law and final judgments of the superior court.

Does a writ of error stay the proceedings ?

Only when the plaintiff gives a bond in civil cases to

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pay the judgment, and the stay of proceedings is ordered by a justice of the supreme court.

When may a civil action be tried anew as matter of right on a writ of review ?

By a defendant who was absent from the State when judgment was rendered against him, but he must begin within one year after judgment.

When else may a review be granted ?

On petition, when justice requires, by the supreme court, of judgments of the supreme and superior courts ; and by the superior courts, of judgments of the superior court and justices of the peace.

How is the matter tried ?

On the same issue as the original suit.

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**CHAPTER CXLVII.**

**OF ARBITRATION BY AGREEMENT BEFORE A JUSTICE  
OF THE PEACE.**

How many demands be submitted to arbitration ?

By an agreement signed and acknowledged before a justice of the peace. It may be of a specific demand or of all demands.

Can the submission be revoked ?

It cannot.

How many arbitrators must act ?

All must meet and hear the parties, but a majority may make the award.

To whom is the award to be delivered ?

To the superior court.

What action do they take on it ?

They may reject, recommit, or accept and render judgment on it.

CHAPTER CXLVIII.

OF IMPROVING SWAMPS AND MEADOWS.

How can swamps or meadows owned by several persons be improved ?

The majority in interest may apply to the superior court and have commissioners appointed.

What are the powers and duties of the commissioners ?

They, after notice and hearing, cause dams and dikes to be erected, ditches to be dug, and the land to be flowed, as they judge best, and apportion the expense, and appoint a collector.

What appeals are allowed ?

By any person injured, from the commissioners to the superior court, and from the superior to the supreme court.

How may the owners be authorized to build roads, drains, ditches, and tunnels across the land of others ?

They may apply to the county commissioners or selectmen, who shall proceed according to the form in laying out highways.

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CHAPTER CXLIX.

OF THE SUPPORT AND REGULATION OF MILLS.

Where may a person erect a mill ?

On any stream not navigable, where it will not injure any other mill.

How is the height to which the water may be raised determined ?

By a jury.

What is the remedy of persons whose land is flowed ?

A petition to the superior court for damages.

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**How is the proceeding then conducted ?**

**Like a suit at common law, with an appeal to the supreme court.**

**How are the jury to estimate the damage ?**

**They must allow all damage to his lands and deduct all benefit.**

**What sums are they to fix ?**

**The damage for three years past, the annual damage for the future, and a gross sum for future damage, and the complainant may elect to take the gross sum.**

**What lien does he have ?**

**A lien on the mill for the damages.**

**When can a new complaint be brought ?**

**When either party wishes the annual compensation changed.**

**Is this the only remedy ?**

**It is.**

**For what other purpose besides mills may dams be erected under this act ?**

**For agricultural purposes.**

**If property is endangered by a dam, what is the owner's remedy ?**

**He may apply to the county commissioners to examine the dam.**

**What is their power ?**

**To order the dam owner to make all necessary repairs and alterations, and if he neglects, to do it at his expense.**

**If the dam flows a road, what is done ?**

**The road is altered by the county commissioners at the dam owner's expense.**

**When a mill or dam owned by several in common needs repairs, how is the matter determined ?**

**A meeting of the proprietors is called and a majority**

in interest decides, and all must contribute to any expense voted.

What toll is allowed millers ?

Not exceeding one sixteenth.

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## CHAPTER CL.

### OF LIENS ON BUILDINGS AND LAND.

Who can claim a lien on buildings and land for labor ?

Any person who performs or furnishes labor, with the owner's consent.

Who for material ?

Any one furnishing them, who has notified the owner in writing, if he is not the purchaser, that he intends to claim it.

How can the owner prevent such lien ?

By giving notice to the person who would acquire it, provided it is not acquired under a contract with him.

How can such lien be dissolved ?

By giving a bond like that given to dissolve an attachment, which must be filed with the town clerk.

What steps must be taken to preserve and enforce the lien ?

The person claiming it must file with the town clerk a just and true sworn account of the amount due him and a description of the property, within thirty days, and bring suit within ninety days after ceasing to labor or furnish materials.

Is such account invalidated by an unintentional inaccuracy ?

It is not.

Who may join in the suit ?

Any number who worked for the same person.

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Who may appear in the suit ?

Any creditor having a lien on the same property.

How is the trial conducted ?

The court decide between them in a summary way, with a jury, if asked for.

If any lien is established, what is done ?

The property is sold and the proceeds divided among the creditors.

What appeal is allowed ?

To the supreme court.

What claim do persons employed in constructing a railroad have on the owners ?

A claim analogous to this lien, and on which notices and certificates must be filed in the same way.

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**CHAPTER CII.**

**OF MORTGAGES, PLEDGES, AND LIENS ON CHATTELS.**

Where and when must chattel mortgages be recorded ?

With the town clerk of the town where the mortgagor lives and where he transacts his business. If he lives out of the State, where the goods are.

If not so recorded, is the mortgage valid ?

Not unless possession is taken.

How is it foreclosed ?

By a written notice of intention to foreclose served on the mortgagor and recorded with an affidavit of service.

How long can it be redeemed after such service ?

For sixty days.

How can a pledgee sell the goods pledged ?

By notice of an intention to sell, served and recorded like the above.

How soon can he sell?

If the property is not redeemed in sixty days.

What lien is given on vessels?

For labor and materials.

How is it enforced?

Like a lien on land, except that the account must be filed within four days after the vessel leaves the port.

How can a person who holds a lien of any other sort enforce it?

If the debt is not paid in sixty days after demand, he can apply to a justice of the peace for an order to sell

What may the justice do?

After notice and hearing, he may order a sale.

What lien do boarding-house keepers have?

On baggage and effects brought to their house by boarders or guests, except mariners.

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## CHAPTER CLII.

### OF RECOGNIZANCES FOR DEBT.

How may a debtor enter into a recognizance for a debt?

By coming before the clerk of the superior court, or before a justice of the peace, for that purpose.

What is its effect?

To subject his person, goods, and estate to be taken on execution.

When can execution be issued?

As soon as there is a default of payment.

What is the remedy for the wrongful suing out or service of such execution?

A writ of *audita querela*.



**CHAPTER CLIII.**

**OF SEIZING AND LIBELLING FORFEITED GOODS.**

When goods are forfeited for any offence, who may seize them?

Any person entitled to recover them, or any officer,  
or constable.

What shall he then do?

File a libel, setting out the cause of seizure; and  
asking a decree of forfeiture.

What notice is given?

To all persons by advertisement.

If a claimant appears, how is his right tried?

Like a civil action.

When are the goods delivered to the claimant?

On his giving bond to restore them, or pay their value  
if forfeited.

What rights has he?

To a trial by jury and an appeal.

When are the goods sold, pending the proceedings?

When they are perishable, or for any other good  
reason.

---

**TITLE V.**

**OF THE LIMITATION OF ACTIONS.**

**CHAPTER CLIV.**

**OF THE LIMITATION OF REAL ACTIONS AND RIGHTS OF  
ENTRY.**

How soon after the right accrues must a real action be  
brought or an entry made?

Within twenty years; but occupation of land, within

the limits of a railroad, may be terminated without regard to the lapse of time.

When does the right accrue ?

When a person first becomes entitled to the possession, or if once in possession, when he was expelled.

What are the exceptions ?

Where the person entitled is within the age of twenty-one, or disabled by marriage, insane, imprisoned, or absent from the United States, he has ten years after the disability is removed.

Is there any allowance for a second disability ?

No.

What possession is required to stop the running of the statute ?

Open peaceable possession for a year, or an entry followed by a suit within one year.

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## CHAPTER CLV.

### OF THE LIMITATION OF PERSONAL ACTIONS.

What actions must be begun within six years after the cause of action accrues ?

Actions on contracts not under seal, for rent, except on sealed leases, replevin, and other actions for taking or injuring chattels, and for tort, except as otherwise provided.

What within four years ?

Actions against sheriffs for the misconduct or negligence of their deputies.

What within two years ?

Actions for assault and battery, slander and libel, and against administrators, guardians, sheriffs, and assignees in insolvency for taking personal property.

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**What are exceptions?**

**Witnessed notes and bank bills.**

**From what time is the six years reckoned on a mutual and open account current?**

**From the last item on either side.**

**What is the limitation of personal actions on contracts not above provided for?**

**Twenty years.**

**For what disabilities of the plaintiff is exception made?**

**Minority, marriage, insanity, imprisonment, or absence from the United States.**

**When is the law stayed for the defendant's absence?**

**When the defendant is out of the State when the action accrues or is absent from and resides out of the State afterwards, such time is not counted.**

**What other exception is there for acts of the defendant?**

**Where the cause of action was fraudulently concealed.**

**How must a promise to pay an outlawed debt be made?**

**By some writing signed by the debtor.**

**How else may the debtor lose the benefit of the statute?**

**By a part payment.**

**How soon must an action for forfeiture be commenced?**

**Within one year by an individual; two years by the State.**

**How soon is a judgment presumed to be paid?**

**After twenty years.**

**TITLE VI.**

**OF COSTS AND FEES.**

**CHAPTER CLVI.**

**OF COSTS IN CIVIL ACTIONS.**

**What is the ordinary rule as to costs?**

**The prevailing party recovers them.**

**What are the exceptions?**

**Where a plea of bankruptcy is filed, the defendant has no costs to that time; where the damages recovered indicate that the action ought to have been brought in a lower court or that an appeal was wrongly taken.**

**When several actions are brought which ought to have been joined in one, what is the rule?**

**One set of costs is allowed.**

**Where there are several counts and each party succeeds on some?**

**Each party taxes costs.**

**When a suit has been discontinued and a new suit brought, when must the costs be paid?**

**Before a trial.**

**Where a suit in equity seeks only a discovery and not a decree, how are the costs given?**

**To the defendant.**

**Where no express provision is made, who decides as to the costs?**

**It is left entirely to the court.**

**Who taxes the costs?**

**The clerk, with a right of appeal to the court.**

## PART IV.

### OF CRIMES AND PUNISHMENTS, CRIMINAL PROCEEDINGS AND PRISONS.

#### TITLE I.

##### OF CRIMES AND PUNISHMENTS.

##### CHAPTER CLVIII.

###### OF THE RIGHTS OF PERSONS ACCUSED.

WHAT has a person arrested a right to know ?

The true ground of his arrest and also to see the warrant.

What penalty does the officer incur who refuses these, or arrests on false pretences ?

A fine not over one thousand dollars or one year's imprisonment.

In what cases can a person be held to answer criminally without an indictment by a grand jury ?

Where an information is expressly authorized, and where the proceedings are before a police court, justice of the peace, or court-martial.

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##### CHAPTER CLIX.

###### OF OFFENCES AGAINST THE SOVEREIGNTY OF THE STATE.

What are these offences ?

Treason and misprision (concealment) of treason.

What is the penalty ?

For treason, imprisonment for life ; for misprision of

treason, a fine not over one thousand dollars, or imprisonment not over five years.

What evidence is required of treason ?

Two witnesses to the same overt act.

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## CHAPTER CLX.

### OF OFFENCES AGAINST THE PERSON.

What are the degrees of murder ?

Deliberate murder, or murder in attempting a crime punishable by death or imprisonment for life, is murder in the first degree ; all other murder in the second.

What is the punishment ?

For the first degree, death ; for the second, imprisonment for life. If acquitted on account of insanity, the murderer is committed to an asylum for life.

What is the punishment for being concerned in or provoking a duel ?

If death ensues, it is murder ; otherwise by imprisonment not over twenty years, or a fine of one thousand dollars and three years' imprisonment or less, according to the part taken.

What is the punishment for engaging in a prize fight as principal ?

Ten years' imprisonment, or five thousand dollars fine.

Who else is punishable ?

Any one who aids, abets, or encourages a prize fight.

What is the maximum punishment for manslaughter ?

Twenty years' imprisonment.

For maiming or disfiguring, or aiding in the offence ?

The same.

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**For assault with intent to murder or maim ?**

**Ten years.**

**For attempting murder in any other way ?**

**Twenty years.**

**For robbery or rape ?**

**Imprisonment for life.**

**For assault with intent to commit murder, robbery, or rape ?**

**Twenty years.**

**For attempting to extort money by threats ?**

**Fifteen years.**

**For kidnapping ?**

**Ten years.**

**For poisoning food or water ?**

**Imprisonment for life.**

**For any other assault with intent to commit a felony ?**

**Ten years.**

**Where life is lost by the negligence of a common carrier of passengers ?**

**A fine of five thousand dollars, to be paid to the executor of the person killed.**

**For negligence in managing a public conveyance ?**

**A fine of five thousand dollars or three years' imprisonment.**

---

**CHAPTER CLXI.**

**OF OFFENCES AGAINST PROPERTY.**

**What is the maximum penalty for arson, or burning buildings or other property ?**

**Imprisonment for life.**

**What is the offence of one who cuts a bell-rope or injures an engine before a fire ?**

**An accessory before the fact.**

If he does it during the fire ?

An accessory after the fact.

What is the maximum penalty for burglary, or breaking and entering buildings or vessels, with intent to commit felony ?

Imprisonment for life.

What are other offences against property punished by imprisonment for five years or less ?

Stealing in a building, or property at a fire, stealing over one hundred dollars worth of property, or a will, or destroying it.

If the property stolen is under one hundred dollars in value, what is the maximum penalty ?

One year's imprisonment.

Who is deemed a common and notorious thief, and how punished ?

Any one convicted of larceny a second time, or three times at one term. The maximum punishment is twenty years' imprisonment.

What is the punishment for stealing paper printed for bank bills, or keeping it when intrusted with it ?

Imprisonment for life or years.

What crime is it to steal a bird or beast ordinarily kept in confinement ?

Larceny.

On a conviction for stealing, to whom may compensation be allowed ?

To the prosecutor, and to the officer who has secured and kept the goods.

What is the punishment for making or having burglarious instruments ?

Ten years' imprisonment or less.

What crime is it to embezzle goods intrusted to the criminal ?

Larceny.



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What is the maximum punishment for embezzlement from the state treasury ?

Imprisonment for life.

From a town, city, county, or bank ?

Ten years' imprisonment.

What is the maximum penalty for buying or receiving stolen or embezzled goods ?

Five years' imprisonment.

What is the maximum penalty for taking or using animals without intent to steal ?

Six months' imprisonment.

On the officer of a corporation for issuing stock, bonds, or notes not authorized, or to a person not entitled to them, or for making a false entry in their books with intent to defraud ?

Ten years' imprisonment.

What offence is it to obtain goods by falsely personating another ?

Larceny.

What is the maximum penalty for obtaining goods under false pretences ?

Ten years' imprisonment.

What are other offences against property ?

Forging trade-marks, obtaining property by tricks, gross frauds at common law, conveying land incumbered or attached without informing the buyer, concealing mortgaged property or selling it without the mortgagor's consent, selling hired property or collateral security, pledging property consigned, destroying monuments, guide-boards, posts, lamps, or extinguishing lamps, injuring school-houses, churches, or their furniture, raising water so as to injure a mill, injuring a dam, reservoir, or canal, or ice taken as merchandise, or bridges or turnpike gates, or passing a tollgate without paying, making false papers for a vessel, committing wilful trespass by cut-

ting timber, wood, or grain, injuring fruit or ornamental trees, glass or fences, or leaving open gates, stealing fruit or flowers, or trespassing with intent to steal them, or maliciously injuring personal property in any other way, or wilfully injuring forest trees, or committing malicious mischief on the Lord's day, or interfering with the property of the Humane Society.

What are the penalties for these crimes ?

Imprisonment for various terms less than three years, or fine and imprisonment.

What is the maximum penalty for destroying buildings by gunpowder, or exploding gunpowder or bombs in them ?

Imprisonment for life.

For throwing oil of vitriol, coal-tar, or any substance on a building to deface it ?

Five years' imprisonment.

For defrauding or attempting to defraud the insurer or owner of a ship by destroying it or otherwise ?

Imprisonment for life.

For wilfully killing, maiming, disfiguring, or poisoning cattle ?

Five years' imprisonment.

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## CHAPTER CLXII.

### OF FORGERY, AND OFFENCES AGAINST THE CURRENCY.

What is the punishment for forging an instrument or record, or issuing it ?

From two to ten years' imprisonment.

For forging a state certificate of debt, or bank-bill, or counterfeiting coin, or having ten or more forged bank-bills or counterfeited coins, intending to pass them ?

Imprisonment for life or any term of years.

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**For having forged bank-bills ?**

**Five years or less.**

**For making plates, tools, or paper to use in forging or coining ?**

**Ten years or less.**

**What are other offences under this head ?**

**Passing anything but bank-bills as currency, or any bill less than one dollar, wilfully injuring bank-bills, collecting bills of a bank to injure it, having or passing worthless bills or imitations of bills, or making imitations of bills.**

**What is done with property seized for violation of this law ?**

**It is destroyed.**

---

**CHAPTER CLXIII.**

**OF OFFENCES AGAINST PUBLIC JUSTICE.**

**What is perjury ?**

**False swearing when lawfully required to depose the truth.**

**What is the greatest penalty ?**

**If on a capital trial, imprisonment for life ; otherwise for twenty years.**

**What is subornation of perjury and its punishment ?**

**Inciting another to commit perjury, and it is punished as perjury.**

**What are other offences under this chapter ?**

**Giving or accepting bribes, corrupting or attempting to corrupt jurors, arbitrators, and auditors, aiding or suffering escapes or rescues of prisoners, refusing to arrest when lawfully required, refusing to aid officers, falsely assuming to be a justice or officer, disguising one's self to resist the law, concealing or compounding offences, and extortion by taking illegal fees.**

## CHAPTER CLXIV.

### OF OFFENCES AGAINST THE PUBLIC PEACE.

What is an unlawful assemblage ?

The assembling riotously or tumultuously of ten persons armed or thirty unarmed.

How is it suppressed ?

It is the duty of every justice of the peace to call on them to disperse in the name of the State, and if they do not, to call on those present to arrest them.

If any person refuses or neglects when so called, what is he deemed ?

One of the rioters.

What are other offences under this chapter ?

Riotously destroying buildings, carrying dangerous weapons, making slung shot or metallic knuckles, making a bonfire within ten rods of a house, or raising a false alarm of fire.

If buildings are riotously destroyed, what must the town pay ?

Three fourths of the value.

---

## CHAPTER CLXV.

### OF OFFENCES AGAINST CHASTITY, MORALITY, AND DECENCY.

What are the principal offences under this chapter ?

Abduction, adultery, polygamy, lewd cohabitation, and open lewdness ; incest, fornication, procuring abortion, advertising means to procure abortion, concealing birth of bastard child ; keeping house of ill-fame ; importing, selling, or receiving obscene books or prints ; blasphemy, profane cursing and swearing ; disturbing religious wor-

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ship ; peddling or gaming near camp meetings, disturbing schools and public meetings or funerals ; drunkenness, being a rogue or vagabond, disorder in the night, night-walking ; violation of sepulture ; buying, or having for sale dead bodies, injuring or defacing tombs, making roads or canals through a burying-ground ; cruelty to animals of any kind.

What is the ordinary punishment ?

Imprisonment for various terms and a fine.

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**CHAPTER CLXVI.**

**OF OFFENCES AGAINST THE PUBLIC HEALTH.**

What is punished under this chapter ?

Selling unwholesome or adulterated food, drink, or medicine, veal killed under four weeks old, and wilfully corrupting springs and reservoirs, or injuring aqueducts.

What record must a person selling poisons keep ?

Of the date, amount sold, and the name of the purchaser.

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**CHAPTER CLXVII.**

**OF OFFENCES AGAINST PUBLIC POLICY.**

What are these offences ?

Setting up lotteries, allowing them in a building, selling lottery tickets, advertising them for sale, selling tickets in a fictitious lottery ; running or trotting horses for money, or setting up a race-course without permission of the selectmen, or sending to a newspaper false notices of marriages, births, or deaths.

What is such race-course deemed ?

A common nuisance.

**CHAPTER CLXVIII.**

**OF FELONIES, ACCESSARIES, ABETTERS, AND ATTEMPTS  
TO COMMIT CRIME.**

**What is a felony ?**

**Any crime punishable by death or imprisonment in the state prison.**

**How is a person who is accessary before the fact, or aids in the commission of a felony, punished ?**

**As a principal.**

**Who is an accessary after the fact ?**

**Any person, not a near relative, who aids or abets the felon to escape.**

**How is such accessary punished ?**

**By imprisonment of not over seven years, or fine.**

**How are attempts to commit crime punished ?**

**If the offence attempted was punishable with death, by not over ten years' imprisonment; if by over five years' imprisonment, by not over five years' imprisonment. Other attempts, by not over one year's imprisonment.**

**What is the maximum punishment for an attempt ?**

**One half the penalty of the crime committed.**

## TITLE II.

### OF PROCEEDINGS IN CRIMINAL CASES.

#### CHAPTER CLXIX.

##### OF PROCEEDINGS TO PREVENT THE COMMISSION OF CRIME.

When may a person be ordered to furnish sureties that he will keep the peace?

When, after a trial, it is found that there is cause to believe that he is about to break the peace; when there is an affray, or hot and angry words in the magistrate's presence, or when he goes armed without cause.

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#### CHAPTER CLXX.

##### OF SEARCH-WARRANTS, REWARDS, ARREST, EXAMINATION, COMMITMENT, AND BAIL.

For what may search-warrants be issued?

For property stolen or embezzled, counterfeit notes or coin, counterfeiter's tools, obscene books, lottery tickets or materials, gaming implements and furniture of gaming-houses, intoxicating liquors.

What must the warrant particularly set out?

The place to be searched, and the thing to be seized.

For what may the governor offer a reward, and to what amount?

One thousand dollars for the apprehension of escaped prisoners.

What reward may the selectmen offer?

Not exceeding five hundred dollars for the detection of a crime, or the apprehension of persons charged with a crime.

What are the proceedings for the arrest of a criminal ?

A sworn complaint to a magistrate, and a warrant issued by the magistrate reciting the complaint and ordering the arrest.

After the arrest, what is the next step ?

The person arrested is brought before a magistrate, and the witnesses against him are examined in his presence, and also his witnesses.

If it appears on the examination that an offence has been committed, and that there is probable cause to believe the prisoner guilty, what is done ?

He is admitted to bail or committed to prison, and the witnesses recognized to appear against him.

When may the proceedings be superseded ?

When they are for some offence, like assault and battery, for which there is a civil remedy, and the party injured acknowledges satisfaction.

How may bail exonerate themselves ?

By surrendering their principal to the court or jail.

What offence is not bailable ?

Treason.

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## CHAPTER CLXXI.

### OF INDICTMENTS, PROSECUTIONS, AND PROCEEDINGS BEFORE TRIAL.

How many grand jurors are drawn ?

Twenty-three.

What is the oath administered to them ?

You, as grand jurors of this inquest for the body of this county, do solemnly swear that you will diligently inquire, and true presentment make, of all such matters and things as shall be given you in charge. The Com-



monwealth's counsel, your fellows', and your own, you shall keep secret ; you shall present no man for envy, hatred, or malice ; neither shall you leave any man unrepresented for love, fear, favor, affection, or hope of reward ; but you shall present things truly as they shall come to your knowledge to the best of your understanding.

How is the foreman selected ?

By the jury by ballot.

What must they not disclose ?

That an indictment for felony has been found, or what opinion a juror expressed, or how he voted.

How soon must an indictment be found after the offence is committed ?

Except in case of murder within six years.

What is done when an indictment for murder is found ?

A copy is served on the accused if in custody, and notice is given to the attorney-general and chief justice of the supreme court.

To what is a person indicted of crime punishable by death or imprisonment for life entitled ?

To a list of the jurors and process to summon witnesses.

How soon must a prisoner be tried ?

At the next term after six months from the time he was imprisoned or bailed on his own recognizance.

When shall a commission issue to take the evidence of witnesses out of the State ?

When the defendant requests it.

## CHAPTER CLXXII.

### OF TRIALS.

What challenges to the jurors are allowed ?

Challenges for cause ; twenty peremptory challenges to the accused in a capital case, and two to each party in other cases.

When must the accused be personally present ?

At the trial of a felony.

What may be proved at a trial for libel ?

The truth of the charge unless it was malicious.

Where the accused is acquitted of part and convicted of part, what is done ?

He is deemed guilty of the part of which he is convicted.

When must formal objections to the indictment be taken ?

Before trial.

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## CHAPTER CLXXIII.

### OF APPEALS, NEW TRIALS, AND REPORTS.

Who may appeal from the conviction of a justice of the peace, or police court, to the superior court ?

Any person.

What is then done with such person ?

He must recognize to appear at the superior court or be committed to prison.

What is the duty of the justice ?

To transmit copies of all the proceedings to the clerk of the superior court.

If the appellant does not prosecute his appeal, what is done ?

He is defaulted and sentenced by the superior court.

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Who may grant a new trial, and when?

The supreme or superior court within one year, when it appears that justice has not been done, or for other good reason.

When may the judge report the case to the supreme court?

With the defendant's consent, when a doubtful question of law arises.

If a case is reported and exceptions filed, what is done with the defendant?

He may recognize to prosecute his exceptions and abide sentence or be committed to prison to await the result.

---

CHAPTER CLXXIV.

OF JUDGMENT AND EXECUTION.

Where no punishment is provided, what sentence shall be awarded?

According to common usage and practice in this State.

What may a convict be required to do?

To furnish sureties to keep the peace.

What is forfeited by imprisonment in the state prison?

Any state office.

If a person is sentenced to death, by whose warrant is he executed?

By that of the governor, under the great seal.

CHAPTER CLXXV.

OF INQUESTS.

When is an inquest to be held ?

On the bodies of persons supposed to have died by violence, and on fires supposed to be incendiary.

What jury is summoned ?

A jury of six who are sworn.

Who presides ?

The coroner in case of dead bodies ; in case of fire, the inquest is held before the court issuing the warrant.

When may the inquisition be secret ?

When a coroner and a majority of the jury so decide.

What is the inquisition and what does it state ?

It is a statement under the hands of the jury certifying when, how, and by what means the person came to his death, his name, and all material circumstances.

What power has the coroner ?

To bind over witnesses to the next court, and to issue a warrant for any person charged by the inquest with the crime.

In towns where there is no coroner, who acts ?

Any justice of the peace.

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CHAPTER CLXXVI.

OF FINES, FORFEITURES, AND COSTS.

When are fines and forfeitures to be paid into the treasury ?

When recovered in prosecutions where the State pays part of the costs, or imposed as a punishment.

Who receives costs, fines, and forfeitures imposed by the superior and supreme courts ?

The sheriff.

## CHAPTER CLXXVII.

### OF FUGITIVES FROM JUSTICE AND PARDONS.

What is the governor's power about fugitives from justice ?

He may deliver, on demand from the governor of another state, any person charged with crime, and may appoint an agent to make the same demand on other governors.

What must accompany the demand ?

Sworn evidence that the party is a fugitive from justice, and a copy of the indictment or complaint.

To whom may the governor refer the matter for examination ?

To the attorney-general.

What must be afforded to the accused ?

An opportunity to apply for a writ of *habeas corpus*.

Can a person be arrested before a demand is made ?

They can, and be held to await it.

How are pardons granted ?

On such conditions, restrictions, and limitations as the governor thinks best.

If the person violates such conditions, does he lose the benefit of the pardon ?

He does, and may be remanded by the governor and council.

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## TITLE III.

### OF PRISONS AND PUNISHMENTS.

## CHAPTER CLXXVIII.

### OF JAILS AND HOUSES OF CORRECTION.

For what are county jails used ?

To detain persons accused and committed for trial,

witnesses in criminal cases, persons committed on sentence, and others committed for cause authorized by law.

Are they compelled to labor ?

No, but they may be furnished employment.

Who appoint the overseers of the houses of correction ?

The county commissioners.

What work must they provide ?

Enough to keep all the inmates at work.

What are the duties of the overseers ?

To see that the rules are enforced and examine the accounts, make contracts for work to be done in the house, or let out the inmates or put them at work on the public lands.

What prisoners have they authority to discharge when reformed ?

Those sentenced as rogues, vagabonds, or vagrants.

Who else has this power ?

The board of state charities.

Who has the charge of jails and houses of correction ?

The board of state charities.

How are the prisoners to be classified and arranged ?

According to the causes of their imprisonment ; those confined on civil process being kept separate from those on criminal, those on infamous offences from those on offences not infamous.

If prisoners are refractory, disorderly, or refuse to work, how are they punished ?

By solitary confinement on bread and water.

What instruction is provided ?

A copy of the Bible or New Testament, moral and religious instruction, and when sick, such clergymen as they request.

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**What other instruction is furnished ?**

**In reading and writing one hour each evening.**

**What is prohibited ?**

**The use of intoxicating liquor by prisoners or officers.**

**What is the punishment for a prisoner escaping ?**

**Not over five years' imprisonment in the state prison.**

**What reward is given for good conduct ?**

**A record is kept, and for each month of good conduct a deduction is made.**

**Who pays for the support of prisoners ?**

**The county, and it receives the profits of their labor.**

**Who are the inspectors of prisons ?**

**The county commissioners. They must visit and inspect the prisons twice a year.**

**Who else inspects the prisons ?**

**Three commissioners of prisons, appointed by the governor.**

**To whom are returns made by the officers of prisons ?**

**To the commissioners and the board of state charities.**

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**CHAPTER CLXXIX.**

**OF THE STATE PRISON.**

**Where is it situated ?**

**At Charlestown.**

**How often must the governor and council inspect it ?**

**Yearly, or oftener.**

**What are the officers ?**

**Three inspectors, warden, deputy warden, physician, clerk, turnkeys, and watchmen.**

**What are the duties of the inspectors ?**

**To establish rules, visit the prison each week, exam-**

ine the books, approve bills, report violations of law, and make an annual report.

What are the duties of the warden and deputy warden ?

They must reside in the prison. The warden shall have the custody, charge, and government of the prisoners and the prison property and make and settle annual accounts.

Who makes contracts on account of the prison ?

The warden, in writing, approved by the inspectors.

Are convicts allowed to communicate with each other ?

No.

Can they see their friends ?

Under such regulations as the warden makes, and in his presence.

Is communication allowed between them and their friends ?

Only through the warden.

What must visitors to the prison have ?

A permit from an inspector.

What are the regulations about moral instruction and good conduct ?

The same as in case of jails.

What is the punishment for an escape or assault on an officer ?

Not over ten years' imprisonment, one year solitary.

For assisting such escape ?

The same punishment. If an officer, twenty years.

What else is punished ?

Any unlawful indulgence, or conveying any article to a prisoner.

What is done for discharged convicts ?

They are furnished with decent clothing, and if their conduct has been good, five dollars in money.

What are the duties of the agent for discharged convicts ?

To furnish them with clothing, board, and tools, and procure employment for them.



What other prison is there ?

A reformatory prison for women, organized and governed in substantially the same way.

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**CHAPTER CLXXX.**

**OF THE TRANSFER OF LUNATICS, AND DISCHARGE  
OF POOR CONVICTS.**

If a prisoner becomes insane, what is done with him ?

After examination, a judge of the superior court may order his removal to the insane asylum.

If he recovers, what is done with him ?

He is recommitted to prison for the rest of his term.

If a convict is unable to pay his fine and costs and is detained for that reason alone, how long is he detained ?

If the amount is under ten dollars, thirty days ; twenty dollars, forty days ; if above twenty dollars and he is unable to pay, he may be discharged by two justices of the peace or a police court.

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**PART V.**

**OF THE GENERAL STATUTES.**

**CHAPTER CLXXXI.**

**OF THE GENERAL STATUTES AND THEIR EFFECT.**

WHEN did they take effect ?

From May 31, 1860.

How are they to be construed ?

As a continuation of former laws and not a new enactment.

When acts are repealed by them, are any former acts revived ?

They are not.

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**SUPPLEMENT**  
**TO THE SECOND EDITION OF**  
**BELL'S MASSACHUSETTS STATUTES.**

*July, 1876.*

**NOTING CORRECTIONS AND CHANGES IN THE LAW TO THE PRESENT  
TIME.**



On page 16, in the third answer of Chapter II. after the word "Eldest," insert "Senior."

Page 19. In place of the first answer in Chapter VII. insert "imprisonment in the House of Correction for not less than three months nor more than one year."

Page 22. To the second answer of Chapter XI. add "and Income over two thousand dollars."

Page 24. The third answer should read, "Trust funds are assessed to trustees in the place where the beneficiary resides, if within this State; if he resides out of the State, in the place where the trustee resides; in equal portions, if there be more than one trustee."

Page 25. To the last answer add, "after the date of his tax bill."

Page 29. In place of the last answer, read, "the active militia shall consist of not more than sixty companies of infantry, three companies of cavalry, three companies of light artillery, and two corps of cadets."

The maximum number of officers, non-commissioned officers, musicians and privates in a company of infan-

try shall be fifty-one; and in companies of cavalry and artillery, eighty.

Page 50. The last answer should read, "In proportion to their valuation of real and personal estate, and to the number of children in each."

Page 51. To the second answer in Chapter XXXVIII. add, "and also sewing if the School Committee deem it expedient."

Page 52. After "School books," in the sixth line from the top, add, "And if any change is made in the school books used in any public school by a two-thirds vote of the whole School Committee, the pupils requiring the substituted book shall be furnished with it by the committee at the expense of the city or town."

Page 53. In the first answer of Chapter XLI. insert, "Seven and fifteen" in place of "Eight and twelve."

Page 54. The first answer in Chapter XLII. should now read, "No child under the age of fourteen years, unless during the year next preceding time of employment the child has been at school twenty consecutive weeks, and the child shall not continue to be employed unless he goes to school as before mentioned."

Page 63. After the word "and" in the first answer, insert, "in case of bad faith, and injury to the purchaser."

Page 65. The first answer in Chapter I.V. should read, "By two or more persons for any lawful business except insurance."

Page 68. In the sixth answer insert "Treasurer" in place of "Secretary."

Page 68. The last answer should read, "An annual return of their condition to the Commissioner."

Page 88. The first answer should read, "Till they are twenty-one years of age."

Page 93. Chapter 86 of the General Statutes is repealed by Chapter 99 of the Statutes of 1875, which provides that sales of spirituous or intoxicating liquors may be made by such persons as the mayor and aldermen of a city, or their appointed representatives, called licensed commissioners, or the selectmen of a town, may deem fit to have licenses to sell liquor.

There are five kinds of licenses that may be given.

The first three classes of licenses are permits to sell liquors of *any kind*, or to sell *malt liquors*, cider, and light wines containing not more than fifteen per cent. alcohol, or to sell malt liquors and cider; *all to be drunk on the premises*.

The two remaining classes are permits to sell liquors of any kind, or to sell malt liquors, cider, and light wines containing not more than fifteen per cent. alcohol, *all not to be drunk on the premises*. Different fees are prescribed for each class, to be (within certain fixed limits) established for each town or city by its authorities. Penalties are provided for violation of the terms of a license, and the seller is made responsible for the damages caused by an intoxicated person, rendered so by the wrongful sale of liquor to him. A husband, wife, parent, child, guardian, or employer of any person who is in the habit of drinking to excess may, after notice requesting a seller not to sell to such person, recover from \$100 to \$500 from the seller for selling to such person.

Page 99, Chapter XCI. The law relating to the descent of real estate as given in the answer to the first question, is repealed, to take effect October 1, 1876, and in place of it the following Act goes into effect on that day.

STS. 1876, CHAP. 220.

When a person dies seized of land, tenements or hereditaments, or of any right thereto, or entitled to any interest therein, in fee-simple or for the life of another, not having lawfully devised the same, they shall descend, subject to his or her debts, in manner following : —

*First.* In equal shares to his or her children, and the issue of any deceased child by right of representation ; and if there is no surviving child of the intestate, then to all his or her other lineal descendants. If all the descendants are in the same degree of kindred to the intestate, they shall share the estate equally ; otherwise, they shall take according to the right of representation.

*Second.* If the intestate leaves no issue, then in equal shares to his or her father and mother.

*Third.* If the intestate leaves no issue nor mother, then to his or her father.

*Fourth.* If the intestate leaves no issue nor father, then to his or her mother.

*Fifth.* If the intestate leaves no issue and no father nor mother, then to his or her brothers and sisters, and to the issue of any deceased brother or sister, by right of representation.

*Sixth.* If he leaves no issue, and no father, mother, brother nor sister, then to his next of kin in equal degree; except that when there are two or more collateral kindred in equal degree, but claiming through different ancestors, those who claim through the nearest ancestor shall be preferred to those claiming through an ancestor who is more remote.

*Seventh.* If the intestate leaves a widow and no kindred, his estate shall descend to his widow; and if the intestate is a married woman, and leaves no kindred, her estate shall descend to her husband.

*Eighth.* If the intestate leaves no kindred, and no widow or husband, his or her estate shall escheat to the Commonwealth.

The descent prescribed by the above shall be subject to and controlled by the provisions of law respecting dower, curtesy, and homestead estates.

Page 103, line 15. In place of the words "the rest," insert "the excess over ten thousand dollars."

Page 109. After the word "either" in the last line, insert "acceptance and."

Page 112. After the word "No," in the fourth line from the bottom, add "if contracted on her separate account."

Page 113. In place of the Questions and Answers given in Chapter CX., insert (Stats. 1876, Chap. 213), —

How may children be adopted?

By an order of the Probate Court, after notice and hearing.

Who may adopt?

Any person of twenty-one years or more, having the consent also of husband or wife, competent to join in the petition ; but no person can adopt his or her wife or husband, brother, sister, uncle or aunt either of the whole or half blood, or a married woman without the consent of her husband. The child must be younger than the adopting parent.

What consent is requisite ?

That of the child alone, if adult ; otherwise, of the child, if above fourteen years, and generally of the parents, except as provided by the statute.

What are the consequences of adoption as respects matters other than the inheritance of property ?

The child becomes the child of the petitioner, — or of both of a married couple, — as if born to him in lawful wedlock. Marriage is prohibited between the child and its adopted parents, but the natural position towards all other parties in sexual relations is unaltered. The child is freed from all civil responsibilities towards its natural parents, except as to support in a certain case.

What is the position of an adopted child as to the inheritance of property ?

The adopted child takes the share of a lawful child in any property which his adopting parent could have devised by will, and he also is in the position of a lawful child towards the legal descendants of such adopting parent. But he does not take under any grant, trust-settlement, entail, devise, or bequest, unless such was the obvious intent of the testator ; *but*, if such testator or grantor, etc., was the adopting parent, the

inference will be reversed, and he must *exclude* plainly the adopted child.

What becomes of property of an adopted child who dies intestate?

That portion acquired by him or received from the adopter or his family, reverts to such heirs as he would have had if a lawful child; and any portion received from his natural parents or family reverts to his natural heirs.

Is a child adopted in another State recognized here?

He is allowed such rights as are given by law in the State where his adoption took place, unless they conflict with the statute here.

Is a second adoption allowed?

Yes; and it terminates all previous ones, except so far as rights to property have accrued.

Page 116. First answer in Chapter CXIV., for "ten" read "eleven."

Page 141. In the fifth answer, in place of the word "due" put "payable."

Page 160. After the word "Canal," in the third line from the bottom, add "or Steam-mill."

Page 169. In place of the first answer, put "Challenges for cause; twenty-two peremptory challenges to each party in capital cases, and crimes punishable by imprisonment for life; and two in all other cases."

Page 170. In place of the last answer, insert, "By that of the court under the seal of the court."





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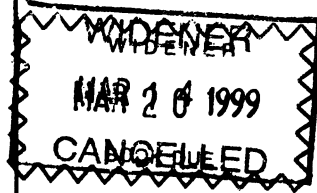




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